

RESTATED AND AMENDED BENICIA MARINA
LEASE AGREEMENT (PHASE II CONDOMINIUMS PARCEL)

by and between

THE CITY OF BENICIA,
a California municipal corporation, Landlord

and

SOUTHERN CALIFORNIA FEDERAL
SAVINGS AND LOAN ASSOCIATION,
Tenant

Execution Date: 4-22, 1990

6/20/90

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EXHIBIT A - Legal Description and Site Map
EXHIBIT B - Phase II Option to Purchase

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RESTATED AND AMENDED BENICIA MARINA
LEASE AGREEMENT (PHASE II CONDOMINIUMS PARCEL)

THIS RESTATED AND AMENDED BENICIA MARINA LEASE AGREEMENT (PHASE II CONDOMINIUMS PARCEL) ("Phase II Master Lease" or "Lease") is entered as of this 22 day of ~~March~~ ^{April}, 1990 ^{MDK} by and between THE CITY OF BENICIA, a California municipal corporation ("Landlord") and SOUTHERN CALIFORNIA FEDERAL SAVINGS AND LOAN ASSOCIATION, a federally chartered savings and loan association, successor-in-interest to Southern California Savings and Loan Association (collectively, "Tenant").

R E C I T A L S

THE PARTIES ENTER THIS PHASE II MASTER LEASE on the following facts, understandings and intentions:

A. By that certain lease dated June 10, 1982 ("Original Master Lease"), Landlord leased and demised to Old Capitol Marina, Ltd., a California limited partnership ("OCM") certain land and water area located in the City of Benicia, Solano County, California, consisting of approximately 1,652,833 square feet of area (the "Project Master Area"). Landlord and OCM executed a Shortform of the Original Master Lease dated August 31, 1982 and recorded the same in Solano County Official Records on December 29, 1982 in Book 1982, Page 86089, Series 48731.

B. By that certain Sublease dated June 10, 1982 ("Original Master Sublease"), OCM subleased the Project Master Area to Tenant. OCM and Tenant executed a Shortform of the Original Master Sublease dated August 31, 1982 and recorded the same in Solano County Official Records on December 29, 1982 in Book 1982, Page 86094, Series 48732.

C. Pursuant to the Original Master Lease and the Original Master Sublease, Tenant caused to be constructed in the Project Master Area, among other improvements, (i) a sixty-nine (69) unit residential condominium project (the "Phase I Condominium Project"); and (ii) a marina for recreational purposes, including public and private boatslips and berths, launching facilities, fuel dock, harbormaster's building and general store (the "Marina"). All of such improvements were constructed (w) under authority of Permit No. 5-77, as amended ("BCDC Permit"), issued to Landlord by the San Francisco Bay Conservation and Development Commission ("BCDC"), (x) pursuant to various agreements with and approvals granted by the California Department of Boating and Waterways ("Cal Boating"), (y) pursuant to various permits and approvals issued by agencies

and departments of Landlord having jurisdiction, and (z) under authority of various other governmental agencies having jurisdiction over the Project Master Area and the improvements constructed thereon.

D. From time to time since completion of construction of the Phase I Condominium Project, Tenant has entered certain forms of "Condominium Sublease, Agreement to Convey and Provision for Grant Deed to Interest in Improvements" (collectively "Phase I Condominium Subleases") with purchasers of the sixty-nine (69) condominium units in the Phase I Condominium Project, pursuant to which Tenant (i) has granted to such purchasers or their successors and assigns the "Condominium Estate" described and defined therein, and (ii) has agreed to grant to such purchasers or their successors and assigns certain other real property interests in the Phase I Condominium Project, described in, and on and subject to the terms of, the "Phase I Option to Purchase" and the "Phase I Notice of Exercise" defined below. The condominium plan for the Phase I Condominium Project was created of record by that certain Declaration of Covenants, Conditions and Restrictions of Benicia Marina Homeowners Association, recorded in Solano County Official Records on October 13, 1983 in Book 1983, Page 85483 (together with any amendments thereto, "Phase I CC&Rs"). The condominium plan is attached as Exhibit A to the Phase I CC&Rs and incorporated by reference therein beginning at Page 85522 of Book 1983, Solano County Official Records. The estates and interests granted by Tenant to such purchasers in the Phase I Condominium Subleases are further confirmed of record in those certain forms of "Memorandum of Condominium Sublease, Agreement to Convey and Grant Deed to Interest in Improvements" (collectively, "Memoranda of Condominium Subleases") which have been recorded in Solano County Official Records at the close of escrow of the initial sale of each condominium unit by Tenant to a purchaser of such unit. Pursuant to the "Phase I Notice of Exercise" defined below, Landlord has subjected and bound all of its right, title and interest in and to the land area covered by the Phase I CC&Rs to the Phase I CC&Rs and the condominium plan established thereby.

E. By that certain "Option to Purchase Fee Title to Real Property" dated September 13, 1984 and recorded on December 19, 1984 in Book 1984, Page 109799, Series No. 56451, Solano County Official Records ("Phase I Option to Purchase"), by and among Landlord, OCM and Tenant, Landlord granted to Tenant the exclusive right and option to purchase all of Landlord's right, title and interest in and to the land underlying the Phase I Condominium Project, upon payment of \$4,500 at close of each escrow at the time of the initial sale by Tenant of each condominium unit in the Phase I Condominium Project. Tenant has made all payments due under the Phase I Option to Purchase. The Phase I Option to Purchase is to be

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exercised effective on or after the date Landlord pays to Cal Boating all principal and interest owing under a certain loan agreement between Landlord and Cal Boating ("Operative Date"), but no later than the period between December 31, 2028 and June 30, 2029 ("Option Exercise Period"). By that certain "Irrevocable Exercise and Acceptance of Exercise of Option to Purchase" dated December 12, 1984 and recorded on December 31, 1984 in Book 1984, Page 113515, Series 53274, Solano County Official Records ("Phase I Notice of Exercise"), by and among Landlord, OCM and Tenant, Tenant, for itself and its successors and assigns and all other interested parties, irrevocably exercised the Phase I Option to Purchase, and the City accepted the same. The effective date of such exercise is the Operative Date. Tenant has performed all obligations of Tenant under the Phase I Option to Purchase and the Phase I Notice of Exercise, and the conveyance by Landlord to unit owners in the Phase I Condominium Project of fee title to the land underlying the Phase I Condominium Project awaits only Landlord's payoff of its loan obligations to Cal Boating on or before the Operative Date.

F. From time to time since completion of construction of the Marina, Tenant has entered certain leases and other use and occupancy agreements for commercial purposes in the Marina, including a lease for the General Store, and certain "Licenses to Use Berthing Space" with boat owners wishing to hire boatslips and berthing spaces in the Marina.

G. By that certain Assignment, Settlement and Release Agreement dated December 31, 1987 ("Settlement Agreement"), OCM (and certain principals and affiliates of OCM) assigned and relinquished to Tenant (and an affiliate of Tenant) their entire right, title, and interest in and to the Original Master Lease, the Original Master Sublease, the Project Master Area, and all other matters in which they, or any of them, had an interest relating to any of the foregoing. To confirm such assignment and relinquishment, among other things, OCM (and its principals and affiliates) executed and delivered to Continental Development of California, Inc., a California corporation ("CDC"), an affiliate of Tenant: (i) a Memorandum of Assignment of Master Lease, recorded on March 29, 1988 in Book 1988, Page 33143, Series No. 16796, Solano County Official records, and (ii) a Memorandum of Assignment of Sublease, recorded on March 29, 1988 in Book 1988, Page 33152, Series 16797, Solano County Official Records. By that certain Consent and Release dated March 5, 1988, Landlord consented to the foregoing.

H. Among other reasons, given (i) the passage of time since the Original Master Lease and Original Master Sublease were entered, (ii) the exit of OCM as a participant in the Original Master Lease and Original Master Sublease, and (iii) the changing goals of Landlord and Tenant with regard to the further development of the Project Master Area, Landlord and

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Tenant wish to restructure the overall development plan for the Project Master Area as reflected in the Original Master Lease and to restate and amend the Original Master Lease so as to , among other things:

(i) restate and amend the Original Master Lease into four (4) separate master leases for the Project Master Area, consisting of this Phase II Master Lease and three (3) other master leases, and separately and respectively covering (A) one or more parcels of land on which is to be built a second residential condominium project containing 116 residential units ("Phase II Condominium Project"), (B) the Phase I Condominium Project, (C) the Marina, and (D) one or more parcels of land on which is to be built certain commercial, office, retail and restaurant facilities altogether containing up to 70,000 gross square feet of space ("Commercial Project");

(ii) provide for the negotiation and execution of two (2) development agreements between Landlord and Tenant which will address various land use and development approvals and conditions granted and to be granted by Landlord to Tenant for the development and construction of the Phase II Condominium Project and the Commercial Project; and

(iii) address other features of the business and legal relationship between Landlord and Tenant going forward from the Effective Date of this Lease, as defined in Section 3 below.

I. Landlord and Tenant desire that Tenant's development and construction of the Phase II Condominium Project and the marketing and sale of the units therein to prospective purchasers contain features similar to certain features which benefited the Phase I Condominium Project, such as, without limitation, a grant by Landlord to Tenant of an option to purchase Landlord's fee interest in and to the land underlying the Phase II Condominium Project for ultimate conveyance to unit owners in the Phase II Condominium Project, upon payment by Tenant of certain sums (in amounts as hereinafter provided) to Landlord at the time of the initial sale by Tenant of each condominium unit in the Phase II Condominium Project, all evidenced by documents in form and substance similar to the Phase I Option to Purchase and the Phase I Notice of Exercise. Consistent with the foregoing, Landlord desires to grant to Tenant, and Tenant desires to accept, an option to purchase fee title to the Demised Premises (as hereinafter defined), on the terms and conditions set forth in this Lease.

NOW, THEREFORE, for and in consideration of (i) the foregoing Recitals (which are hereby incorporated into and shall be deemed part of this Lease), and (ii) the premises demised hereby and the faithful performance by the parties of the terms

and conditions and the mutual covenants hereof, for other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged, and effective upon the Effective Date (as defined in Section 3 below), the parties hereby agree as follows:

1. Restatement and Amendment of Original Master Lease.

a. Assignment by CDC; Merger of Estates. This Lease shall constitute a comprehensive restatement and amendment of the Original Master Lease. CDC hereby joins in the execution of this Lease (and the other three (3) master leases contemplated hereby) solely in order to confirm its contemporaneous complete and irrevocable assignment and relinquishment to Tenant of its entire right, title and interest in (a) the Original Master Lease, (b) the Original Master Sublease and (c) the Project Master Area. Landlord hereby consents to CDC's assignment and relinquishment as set forth herein and Tenant's assumption of CDC's rights and duties under the Original Master Lease and Original Master Sublease as carried forward in this Lease and the other three (3) master leases contemplated hereby, from this date forward, and Landlord hereby releases CDC from any and all obligations and liabilities of "Lessee" under the Original Master Lease, "Sublessor" under the Original Master Sublease, "Tenant" under this Lease and the Other Master Leases, and from all other obligations of every kind and nature with respect to the Project Master Area. CDC shall execute such other separate conveyances, assignments, instruments and agreements as Landlord and Tenant deem necessary to confirm of record and otherwise the assignments and relinquishments set forth herein. The separate estates and interests set forth in the Original Master Lease and the Original Master Sublease are hereby merged into a unitary master leasehold estate in the land area, rights and interests demised hereby, and Landlord hereby reconfirms in favor of Tenant Landlord's original grant of such leasehold estate as set forth in the Original Master Lease.

b. Rescission of Defaults; Confirmation of Effectiveness. Landlord hereby rescinds, cancels, waives, releases and terminates any and all notices of default, defaults and violations which Landlord may have previously declared under the terms of the Original Master Lease and Original Master Sublease, and declares that there are no outstanding defaults, events of default or other violations under the Original Master Lease and/or the Original Master Sublease, and that the same are in full force and effect. Landlord and Tenant hereby restate and amend the Original Master Lease to read in its entirety as set forth in this Phase II Master Lease and three (3) separate master leases for (i) the Marina, (ii) the Phase I Condominium Project, and (iii) the Commercial Project, respectively, which

leases shall be entered into contemporaneously with this Phase II Master Lease, and shall be referred to herein individually and respectively as the "Marina Master Lease", the "Phase I Condominiums Master Lease" and the "Commercial Project Master Lease" and collectively as the "Other Master Leases". The terms "Landlord" and "Tenant" as used in this Lease and the Other Master Leases are hereby deemed to have the same meanings as the terms "City" and "Lessee" respectively as used in the Original Master Lease.

2. Premises.

a. Lease and Demise. Landlord by these presents hereby does lease and demise unto Tenant, and Tenant by these presents does lease, hire and take from Landlord those certain parcels of land located in the City of Benicia, Solano County, California, and more particularly described in the legal description and site map attached hereto as Exhibit A and incorporated by reference, together with any and all improvements, appurtenances, rights, privileges and easements benefitting, belonging or pertaining thereto, and any right, title and interest of Landlord in and to any land lying in the bed of any street, road or highway (open or proposed) to the center line thereof, in front of or adjoining said tract, piece or parcel of land, provided, that the demise to Tenant of a leasehold interest in such streets, roads and highways shall not prejudice or be exclusive of the rights of the public for travel, maintenance, and other use and enjoyment in, of and across such streets, roads and highways, and together with any strips and gores relating to said tract, piece or parcel of land (all the foregoing hereinafter sometimes referred to as the "Demised Premises" and sometimes referred to as the "Premises"). Tenant agrees that this Lease and all rights hereunder shall be subject to all exceptions, reservations, leases (except the Original Master Lease and Original Master Sublease), licenses, easements, and rights-of-way of record now existing in, to, over or affecting the Demised Premises.

b. Tenant Accepts Premises As-Is. Tenant acknowledges that Tenant is leasing the Demised Premises and entering into this Lease solely in reliance on Tenant's own investigation, and that no representations or warranties of any kind whatsoever, express or implied, have been made by Landlord, Landlord's agents, officers, employees or representatives. Tenant further acknowledges that as of the Effective Date, Tenant shall be fully aware of all conditions of the Demised Premises, above and below ground, including those which are not visible upon a casual inspection or observation of the Demised Premises. It is acknowledged by the parties that Tenant has enjoyed the right to possess and occupy the Demised Premises since June 10, 1982 and has had ample opportunity to investigate, explore, test and examine each and every condition

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of the Demised Premises, and Tenant hereby acknowledges that it has performed said investigations to its complete and total satisfaction. Tenant hereby acknowledges that it has been advised that the Demised Premises may consist of hydraulic dredge fill or other fill materials placed over low-lying, marshy ground, originally devoted to marginal uses including, but not necessarily limited to, agriculture and trash dumps. Tenant accepts the Demised Premises in its present condition notwithstanding the fact that there may be certain defects in the Demised Premises which may not be actually known to either party at the time of the execution of this Lease, and Tenant hereby acknowledges that it is familiar with the contents of any and all maps, engineering plans and soil reports on file with Landlord and relating to the Demised Premises and has been afforded an opportunity to examine same. Tenant acknowledges that the condition of the land may cause additional engineering or construction costs above and beyond those contemplated by either party to this Lease at the time of the execution thereof and Tenant agrees that it will make no demands upon Landlord for any construction, alterations of any kind or labor that may be necessitated by said conditions or any one of them. In addition, Tenant hereby waives, withdraws, releases and relinquishes any and all claims, suits, causes of action, rights of rescission, or charges against Landlord, its officers, agents, employees or representatives which Tenant now has or may have or asserts in the future which are based upon any defects in the physical condition of the Demised Premises and the soils thereon and thereunder, regardless of whether or not said conditions were known at the time of the execution of this Lease.

3. Conditions Precedent: Amendment to Cal Boating Agreements and BCDC Permit; Receipt of Appraisal; Adoption of Development Agreement; Effective Date of this Lease. Landlord shall use its best efforts to amend (a) its loan and other agreements with Cal Boating affecting the Project Master Area ("Cal Boating Agreements") and the BCDC Permit so that the Cal Boating Agreements and the BCDC Permit will be consistent with the terms of this Lease and the Other Master Leases. Tenant agrees to cooperate in Landlord's efforts to amend the Cal Boating Agreements and the BCDC Permit, as aforesaid. Landlord's receipt on or before the date which is the last day of the month which is eighteen (18) months after the Execution Date ("Conditions Date") of all consents and approvals required of Cal Boating and the BCDC to this Lease and the Other Master Leases, as evidenced in writings satisfactory to Tenant and Landlord, shall be a condition precedent to Tenant's and Landlord's obligations under this Lease and the Other Master Leases. In addition, the parties' receipt and approval by the Conditions Date of the letter appraisal described in Section 21 hereof shall be a condition precedent to each party's obligations under this Lease. In addition, the completion by

the Conditions Date of any actions or receipt of any approvals necessary for this Lease and the Other Master Leases to comply with the California Subdivision Map Act and the Benicia subdivision ordinance shall be conditions precedent to each party's obligations under this Lease. Finally, the parties' execution on or before the Conditions Date of a development agreement ("Phase II Development Agreement") pertaining to the development of the Phase II Condominium Project, adopted in compliance with the City of Benicia Development Agreement ordinance shall be a condition precedent to Tenant's and Landlord's obligations under this Lease. As, if and when the same have timely occurred, Landlord and Tenant shall evidence their agreement that the foregoing conditions have been satisfied by each delivering to the other a certificate to that effect. Notwithstanding anything to the contrary contained elsewhere in this Lease, the effective date of this Lease ("Effective Date") shall occur only when the foregoing conditions shall be timely satisfied as evidenced by the delivery of the certificates provided herein. Unless and until all of such conditions shall be timely satisfied, the Original Master Lease and Original Master Sublease shall remain in full force and effect.

4. Use of Premises.

a. Purpose. The Demised Premises shall be used for the sole purpose (and for no other purpose) of constructing, operating and selling units in the Phase II Condominium Project in accordance with the Phase II Development Agreement and in any manner consistent with (a) the Cal Boating Agreements, (b) the BCDC Permit, and (c) a declaration of covenants, conditions and restrictions for the condominium regime proposed for the Demised Premises ("Phase II CC&Rs"), which Phase II CC&Rs Tenant may record against the Demised Premises during or upon completion of construction of the Phase II Condominium Project, as any or all of the same may be amended from time to time. The Phase II CC&Rs and any condominium subleases entered by Tenant with purchasers of units in the Phase II Condominium Project shall be consistent with this Lease in every respect. The Phase II CC&Rs shall, by their terms, be enforceable by the Landlord to the same extent that Phase I CC&Rs are enforceable by the Landlord. The Phase II CC&Rs shall incorporate by reference the subleases ("Phase II Condominium Subleases") entered into by Tenant with each purchaser of a unit in the Phase II Condominium Project.

b. Best Efforts to Construct Phase II Condominium Project. Subject to and upon all terms and conditions of this Lease and the Phase II Development Agreement, Tenant shall use best efforts to timely construct the Phase II Condominium Project and to promptly market and sell the residential units which are part of the same to prospective purchasers. As part of its construction of the Phase II

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Condominium Project, Tenant shall also construct the following improvements for the benefit and use of the public on land which is part of the land demised by the Marina Lease: (i) a community building which shall include a meeting area, public restrooms, and shower facilities for boaters using the Marina; (ii) a waterfront trail, the design and construction of which shall be in accordance with the requirements of the BCDC Permit and approved by the Benicia Director of Parks and Recreation; (iii) landscaping and other improvements to a parcel of land encumbered by the Marina Lease for use as a "marina green". Tenant shall also construct a sufficient number of public parking spaces in the Demised Premises such that the total number of public parking spaces available in the portions of the Project Master Area covered by this Lease, the Commercial Lease and the Marina Lease shall be the number required by the BCDC Permit. The above-described improvements are hereinafter collectively referred to as the "Associated Improvements". Once completed, the Associated Improvements set forth in subparagraphs (i), (ii) and (iii) above are to be owned and maintained by the tenant under the Marina Lease for the benefit of the public in accordance with the BCDC Permit. The additional public parking in the Demised Premises shall be maintained by Tenant. Tenant's best efforts in construction shall be judged for consistency with the development, construction and management practices of other first-class residential developers in Northern California dealing with properties similar to the Demised Premises. Landlord and Tenant acknowledge and agree that an immediate and long-term goal of this Lease is to realize maximum revenue from the development of the Demised Premises in accordance with this Lease and the Phase II Development Agreement.

5. Term. The remaining term of this Phase II Master Lease shall commence on the Effective Date and shall continue for the following terms, and on the following terms and conditions:

a. Initial Term. The initial term ("Initial Term") of this Lease shall commence on the Effective Date and shall expire on the last day of the month which is the sixtieth (60th) month after the month in which the Effective Date occurs.

b. One Three-Year Renewal Term. At any time prior to the expiration of the Initial Term, Tenant may extend and renew this Lease for an additional three-year term ("Short-Term Renewal Term"), commencing upon the expiration of the Initial Term. Tenant's election to extend and renew the lease for the Short-Term Renewal Term shall be conditioned upon Tenant's payment to Landlord on or before the expiration of the Initial Term of \$638,000, less any portion of the Option Consideration defined and provided for in the Phase II Option to Purchase which has been previously paid to Landlord. If fewer

than 116 units is subsequently finally approved for construction in the Phase II Condominium Project, Landlord shall promptly refund to Tenant an amount equal to \$5,500 times the difference between 116 and the number of units finally approved for construction. If more than 116 units is subsequently approved for construction, Tenant shall promptly pay to Landlord an amount equal to \$5,500 times the difference between 116 and the number of units finally approved for construction. Tenant's election to extend and renew this Lease for the Short-Term Renewal Term shall also be conditioned upon Tenant not being in material default of its obligations under this Lease at the time of commencement of the Short-Term Renewal Term. In the event of a dispute as to whether Tenant is in default as aforesaid, such dispute shall be referred to arbitration in accordance with this Lease and the time for Tenant to elect such Short-Term Renewal Term shall be automatically extended for a period ending ten (10) business days after rendering of the written final decision in the arbitration proceeding. Subject to the foregoing, Tenant shall be deemed to have elected to extend and renew the Initial Term for the Short-Term Renewal Term unless Tenant gives written notice to Landlord to the contrary prior to the commencement of the Short-Term Renewal Term.

c. Long-Term Renewal Term. At any time during the Initial Term or the Short-Term Renewal Term, Tenant may elect to extend the term of this Lease for a period ending June 10, 2042 ("Long-Term Renewal Term"), on condition that prior to or concurrently with such election, Tenant shall have (i) obtained building permits from the City of Benicia agencies having jurisdiction necessary for the construction of the Phase II Condominium Project and the Associated Improvements, (ii) paid all fees ordinarily charged and then in effect for such building permits by the City of Benicia, and (iii) if such election is made during the Initial Term, paid the amounts of Option Consideration as required in Section 5.b. above. Tenant's election to extend and renew this Lease for the Long-Term Renewal Term shall also be conditioned upon Tenant not being in material default of its obligations under this Lease at the time of commencement of the Long-Term Renewal Term. In the event of a dispute as to whether Tenant is in default as aforesaid, such dispute shall be referred to arbitration in accordance with this Lease and the time for Tenant to elect the Long-Term Renewal Term shall be automatically extended for a period ending ten (10) business days after the rendering of the written final decision in the arbitration proceeding. Tenant shall make the election contemplated herein by accepting delivery of such building permits, paying such fees and paying such Option Consideration within the time periods contemplated herein. If Tenant is actively and diligently seeking to obtain such building permits and has complied with all laws, ordinances and regulations applicable to the issuance thereof but is unsuccessful in obtaining the same upon the expiration of the

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Short-Term Renewal Term because of delays occasioned by the acts or omissions of one or more of the agencies of Landlord having jurisdiction over such matters, the Short-Term Renewal Term shall be extended for a period equal to the period of such delay. In addition, in the event of any dispute over the cause of delays, such dispute shall be referred to arbitration in accordance with this Lease and the time for Tenant to elect the Long-Term Renewal Term shall be automatically extended for a period ending ten (10) business days after the rendering of the written final decision in the arbitration proceeding. In the event of concurrent disputes over defaults and the causes of delay which are both referred to arbitration as provided in this Section 5.c., arbitration proceedings for such disputes shall be consolidated and decided in one proceeding. The Initial Term, Short-Term Renewal Term and Long-Term Renewal Term shall be referred to herein collectively as the "Term."

6. Rental Security Deposit. On the Effective Date, Tenant shall pay to Landlord the sum of \$150,000.00, consisting of (i) a grant of a security interest in certain certificates of deposit, mortgage-backed securities or other securities or undertakings acceptable to landlord having a face value of at least \$76,263.75 (collectively, "Security Deposit Collateral"), and (ii) \$73,736.25 in cash which Tenant had heretofore deposited with Landlord pursuant to the Original Master Lease and Original Master Sublease and which Landlord and Tenant now agree shall be held by Landlord as security for Tenant's obligations under this Lease following the Effective Date, as provided herein (the "Cash Portion") (the Security Deposit Collateral and the Cash Portion, collectively the "Security Deposit"). The Security Deposit shall be retained by Landlord as a security deposit to cover delinquent rent and any other financial obligations of the Tenant under this Lease, and shall be so applied at the discretion of the Landlord. In the event all or any part of the Security Deposit is applied against any rent or other financial obligations of Tenant due and unpaid, Tenant shall immediately reimburse Landlord an amount equal to that portion of the Security Deposit applied by Landlord so that at all times during the term of this Lease the full Security Deposit amount shall be maintained with Landlord. Failure to maintain the full amount of Security Deposit shall constitute an event of default as provided for in Section 32. At any time, Tenant may substitute for the Cash Portion, a corporation surety bond issued by a surety company licensed to transact business in the State of California, or such other bond or written undertaking satisfactory to City, in an amount equal to the Cash Portion. Landlord shall release the total Security Deposit (in whatever form or forms it is then held) to Tenant upon the closing of the sale by Tenant of the condominium unit in the Phase II Condominium Project which, when added to units previously sold, results in fifty percent (50%) of all units having been sold. So long as Tenant is not in default under

this Lease, Tenant shall have the right to collect and retain any interest earned on Security Deposit Collateral from time to time constituting part of the Security Deposit. In addition, amounts of the Security Deposit consisting of the Cash Portion (or any bond substituted therefor) and/or the Security Deposit Collateral may be reallocated between such forms so long as the total Security Deposit shall aggregate \$150,000.00 in value.

7. Ground Rental Receipts. As used in this Lease, the term "Lease Year" shall mean each period during the term commencing on July 1 of a calendar year and ending on the next succeeding June 30. If the Effective Date occurs before July 1, 1990, the first Lease Year shall be deemed to have commenced on the Effective Date and to end on June 30, 1991. Similarly, if the Effective Date occurs on or after July 1, 1990, the first Lease Year shall be deemed to have commenced on the Effective Date and to end on June 30, 1991. Tenant shall close the books on the Original Master Lease and Original Master Sublease effective as of the Effective Date, and shall make appropriate allocations and prorations between the parties' respective accounts under the Original Master Lease and Original Master Sublease, on the one hand, and this Lease and the Other Master Leases, on the other hand. Within sixty (60) days after the close of each Lease Year during the term of this Lease, Tenant shall render to Landlord in a form satisfactory to Landlord an accounting, on a cash basis, of Tenant's receipts from ground rents received from unit owners in the Phase II Condominium Project pursuant to the respective Phase II Condominium Subleases for such units, but excluding condominium association dues and other similar charges (collectively, "Ground Rental") during the preceding Lease Year, setting forth in particular the Ground Rental for said Lease Year. Tenant shall keep true and accurate books and records showing Ground Rental receipts and receivables, and Landlord shall have the right through its representatives, and at all reasonable times, to inspect such books and records, and Tenant hereby agrees that all such records and instruments are available to Landlord and that it shall make the same available to Landlord. Tenant covenants and agrees that the Ground Rental to be charged to unit owners in the Phase II Condominium Project during the Term of this Lease shall at all times be equal to or greater than the amounts payable as minimum annual rental under Section 8 of this Lease. Unless otherwise specified in other provisions of this Lease, if any payment required under this Lease by Tenant or Landlord is not paid within thirty (30) days after it is due, the party owing such amount shall pay to the other party a late fee in an amount equal to one percent (1%) of the amount not timely paid for each month or portion thereof that such amount remains unpaid.

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8. Annual Rent; Lot Fees; Share of Transfer Fees
Application of Rents by Landlord.

a. Minimum Annual Rent. Tenant shall pay to Landlord a minimum annual rental in twelve (12) equal monthly installments. Installments shall be payable in advance on the first day of each month. If any installment is not paid within fifteen (15) days after it is due, Tenant shall pay to Landlord a late fee in an amount equal to one percent (1%) of the amount not timely paid for each month or portion thereof that such amount remains unpaid. From and after the Effective Date, and continuing through June 30, 1992, the minimum annual rental shall be \$89,712.00. For the period from July 1, 1992 through June 30, 2002, the minimum annual rental shall be \$109,412.00. From July 1, 2002 until the term hereof expires or this Lease is earlier terminated, the minimum annual rental shall be \$89,712.00.

b. Lot Fees. In addition to the minimum annual rental set forth in Section 8.a above, and as additional consideration for this Lease, at the closing of the initial sale of each unit in the Phase II Condominium Project by Tenant to a third party purchaser, Tenant shall pay to Landlord a lot fee of \$2,500.00 from the proceeds of the sale of such unit.

c. Share of Transfer Fees. In addition to the minimum annual rental set forth in Section 8.a above and the lot fees set forth in Section 8.b above, and as additional consideration for this Lease, Tenant shall pay to Landlord an amount equal to fifty percent (50%) times the amounts, if any, Tenant receives as transfer fees from sales of condominium units in the Phase II Condominium Project by the owners thereof to third parties. Tenant shall make such payments within thirty (30) days after the end of the month in which it received such transfer fees. If any amount payable under this Section 8.c. is not paid when due, Tenant shall pay to Landlord a late fee in an amount equal to one percent (1%) of the amount not timely paid for each month or portion thereof that such amount remains unpaid.

d. Application of Income by Landlord. Landlord covenants for the benefit of Tenant and Tenant's successors and assigns in the Demised Premises to apply all sums received by Landlord as lot fees and Option Consideration under this Lease, plus interest earned thereon, net of amounts required to be retained under the Cal Boating Agreements, to public improvements to the Project Master Area and areas adjacent thereto, which improvements shall include, by way of example only, (i) parking for the Commercial Project, (ii) improvements to the area adjacent to the Commercial Project and commonly known as the Historic Triangle, (iii) infrastructure construction and repair, and (iv) improved waterfront access.

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9. Percentage Rental. If in any Lease Year the product of twenty-five percent (25%) times the Ground Rental received during that Lease Year (such amounts, if any, collectively called "Percentage Rental") exceeds the minimum annual rental payable for such Lease Year pursuant to Section 8.a above (exclusive of the lot fees provided for in Section 8.b above and any transfer fees received by Tenant as described in Section 8.c above), the rental payable pursuant to this Lease for such Lease Year shall be deemed to be the Percentage Rental. Tenant shall pay to Landlord the difference between Percentage Rental payable for any Lease Year and the minimum annual rental actually paid or payable for such Lease Year within sixty (60) days after the end of such Lease Year. If any Percentage Rental payable in any Lease Year is not paid within fifteen (15) days after it is due, Tenant shall pay to Landlord a late fee in an amount equal to one percent (1%) of the amount not timely paid for each month or portion thereof that such amount remains unpaid.

10. Improvements, Repairs, Additions, Replacements.

a. Maintenance and Repairs. Tenant shall, at all times during the term of this Lease, and at its own cost and expense, keep and maintain or cause to be kept and maintained in repair and good condition (ordinary wear and tear excepted), all buildings and improvements at any time erected on the Demised Premises, and shall use all reasonable precautions to prevent waste, damage or injury. Tenant's compliance with the foregoing maintenance and repair covenant shall be to the reasonable satisfaction of Landlord. Any disputes as to Tenant's compliance shall be referred to arbitration in accordance with the provisions of this Lease. Landlord shall not be required to furnish any services or facilities (other than utilities and other services available to the general public on the terms and conditions upon which the same are made available to the general public) or to make any improvements, repairs, or alterations in or to the Demised Premises during the term of this Lease. If Tenant fails to make any such repairs or replacements as required, Landlord may notify Tenant of said default in writing, and should Tenant fail to commence to cure said default and to commence to make said repairs or replacements within a reasonable time, Landlord may make such repairs or replacements, and the cost thereof, including, but not limited to, the cost of labor, materials and equipment, shall be charged to Tenant and shall be paid to Landlord by Tenant upon demand. Tenant waives the benefits and effect of Civil Code Sections 1941 and 1942.

b. Alterations. Subject to the provisions of Section 10.e. below, Tenant may, at its option and at its own cost and expense, at any time and from time to time, make such alterations, changes, replacements, improvements, and additions

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in and to the Demised Premises, and the buildings and improvements thereon, as it may deem desirable, including the demolition of any building(s) and/or structure(s) that now or hereafter may be situated or erected on the Demised Premises; provided that any such alterations, changes, replacements, improvements and additions shall not, when completed, substantially impair the value of the Demised Premises.

c. Personal Property. As, if and when Tenant undertakes construction of the Phase II Condominium Project, Tenant shall furnish and equip the Demised Premises with such items of furniture, fixtures, equipment and other personal property (other than items of personal property which may be owned or installed or required to be provided by condominium unit owners or other occupants in the Phase II Condominium Project) as are necessary or appropriate, in Tenant's reasonable business judgment, to bring to market and sell a first-class residential condominium project in the Demised Premises. Tenant shall also keep such property in good condition and repair and provide replacements and renewals as appropriate. Any personal property furnished by Tenant pursuant to this Lease, including replacements and renewals, shall be referred to in this Lease as "Personal Property".

d. Maintenance Guidelines. Without limiting the generality of the maintenance and repair standards set forth in Section 10.a. above, Tenant agrees to:

(i) Maintain the surface of all pedestrian areas level, smooth and evenly covered with the type of surfacing material originally installed thereon or such substitute thereof as shall be in all respects equal thereto or better in quality, appearance and durability;

(ii) Remove all papers, debris, filth and refuse, and sweep, wash down and/or clean all hard surfaces, including brick, metal, concrete, glass, wood and other permanent poles, walls or structural members as required;

(iii) Maintain such appropriate entrance, exit and directional signs, markers and lights as shall be reasonably required and which are in accordance with the practices prevailing in the operation of similar developments;

(iv) Clean lighting fixtures and relamp and/or reballast as needed;

(v) Repaint striping, markers, directional signs, etc., as necessary to maintain in first-class condition;

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(vi) Maintain landscaping as necessary to keep in a first-class, thriving condition;

(vii) Maintain signs, including relamping and/or reballasting and/or repairing as required;

(viii) Maintain and keep in good condition and repair all benches, shelters, planters, coverings, banners, furniture, trash containers, sculptures and other exterior elements;

(ix) Maintain and keep in sanitary condition public restrooms and other common-use facilities;

(x) Clean, repair and maintain all common utility systems to the extent that the same are not cleaned, repaired and maintained by public utilities;

(xi) Maintain all fountains and associated structures, drinking fountains, pumps and associated plumbing;

(xii) Provide adequate security lighting in all areas during periods of unrestricted public access, and maintain all security and decorative light fixtures and associated wiring systems;

(xiii) Maintain all surface and storm lateral drainage systems; and

(xiv) Maintain all sanitary sewer lateral connections.

e. Construction on Demised Premises.

(i) Construction Standards. Any building or structure erected on any portion of the Demised Premises as permitted under this Lease or the Phase II Development Agreement (to the extent the same is then in force and effect), any remodeling or reconstruction work undertaken on or within any existing building on any portion of the Demised Premises, and any alteration of or addition to open spaces or common area, shall at all times be of first-class construction and architectural design and shall be in accordance with plans therefor submitted to and approved by Landlord in accordance with subsection 10.e.(ii). Any development or construction of buildings or structures, remodeling or reconstruction of any building or structure on any portion of the Demised Premises, or alteration of or addition to open spaces or common area, shall at all times meet the requirements of the Phase II Development Agreement (to the extent the same is then in force and effect), and shall conform to the approved design concepts, so that the exterior of all such buildings, including, without limitation,

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exterior elevations and color thereof, and all such other improvements, will be architecturally and aesthetically compatible and harmonious with the other buildings and improvements on the Demised Premises. Any construction undertaken and commenced pursuant to this Lease shall be diligently prosecuted and accomplished without cost or expense to Landlord, and in a good and workmanlike manner.

(ii) Landlord's Approval of Plans.

Landlord's rights of approval with respect to any construction, reconstruction or remodeling work undertaken prior to "completion of construction" (as defined in Section 13.c. below) shall be governed by the provisions of the Phase II Development Agreement (to the extent the same is then in force and effect) and this Lease (except subsections 10.e.(ii)(1)-(4) thereof). Following completion of construction, any construction, reconstruction or remodeling undertaken by Tenant on the Demised Premises shall be governed by the following:

(1) Tenant shall have the right, following completion of construction, without Landlord's consent (but subject to all other provisions of this Lease and applicable State and local laws), to undertake any interior, nonstructural remodeling of the Tenant's improvements not visible from the outside or affecting exterior appearance and not altering the pre-existing location of the improvements on the Demised Premises;

(2) If Tenant at any time following completion of construction desires to undertake any construction, reconstruction, demolition or remodeling on the Demised Premises which is not exempt from Landlord's approval as provided in subsection 10.e.(ii)(1), above, Tenant shall, prior to the commencement of such work, prepare or cause to be prepared, at its sole expense, and shall submit to Landlord for its review and written approval, plans and specifications for such work, showing, without limitation, scaled elevations, scaled floor plans, design concepts, dimensions, material selection, colors, signing (if any) and such additional information as is reasonably necessary for Landlord to make an informed decision on such submission. Landlord shall approve or disapprove such submitted plans within thirty (30) days of receipt of complete plans and specifications meeting the requirements of this subsection. Failure by Landlord to specify any objection to such plans and specifications or make a proposal that would add to or change the plans and specifications within such 30-day period shall be deemed approval. The plans and specifications shall comply with this Lease and shall be in compliance with existing building codes and other laws, regulations and ordinances;

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(3) No material changes to approved plans and specifications shall be made without the prior written approval of Landlord, which approval shall not be unreasonably withheld or delayed beyond thirty (30) days after submittal, and Landlord's failure to respond within thirty (30) days after submittal shall be deemed approval; and

(4) Notwithstanding subsections 10.e.(ii)(1), (2) and (3), above to the contrary, any construction, remodeling or reconstruction work which requires as a condition precedent to the commencement of work an amendment of the Phase II Development Agreement (to the extent the same is then in force and effect), the securing of design review approval, tentative map approval, other planning approvals, compliance with other provisions of the Subdivision Map Act, approval of BCDC or Cal Boating or compliance with any other State or local planning law shall not be deemed approved by Landlord until said approvals and/or compliance are first secured and/or effected within the time periods otherwise applicable to said approvals and/or compliance.

11. Requirements of Public Authority.

a. Compliance with Laws. During the term of this Lease, Tenant shall, at its own cost and expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directives, rules and regulations of all governmental authorities affecting the Demised Premises or appurtenances thereto or any part thereof whether the same are in force on the Effective Date or may in the future be passed, enacted, or directed, and Tenant shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, that may in any manner arise out of or be imposed because of the failure of Tenant to comply with the covenants of this Section 11.

b. Right of Contest. Tenant shall have the right to contest by appropriate legal proceedings diligently conducted in good faith, in the name of the Tenant, or Landlord (if legally required) (or both if legally required), without cost or expense to Landlord, the validity or application of any law, ordinance, rule, regulation, or requirement of the nature referred to in Section 11a. and, if by the terms of any such law, ordinance, order, rule, regulation or requirement, compliance therewith may legally be delayed pending the prosecution of any such proceeding, Tenant may delay such compliance therewith until the final determination of such proceeding.

c. Landlord to Cooperate. Landlord agrees to execute and deliver any appropriate papers or other instruments which may be necessary or proper to permit Tenant so to contest

the validity or application of any such law, ordinance, order, rule, regulation or requirement and to fully cooperate with Tenant in such contest.

12. Covenant Against Liens.

a. Protection of Landlord. Nothing in this Lease shall be construed as constituting the consent of Landlord, expressed or implied, to the performance of any labor or the furnishing of any materials or any specific improvements, alterations or repairs to the Demised Premises or any part thereof by any contractor, subcontractor, laborer or materialman, nor as giving Tenant 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 give rise to the filing of mechanics' liens or other claims against Landlord's fee interest in the portion of the Project Master Area underlying the Demised Premises. Landlord shall have the right at all reasonable times to post, and keep posted, on the Demised Premises any notices which Landlord may deem necessary for the protection of Landlord from mechanics' liens or other claims. Tenant shall give Landlord ten (10) days prior written notice of the commencement of any work to be done on the Demised Premises to enable Landlord to post such notices. In addition, Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons doing any work or furnishing any materials or supplies to Tenant or any of its contractors or subcontractors in connection with the Demised Premises and the improvements thereon. (1) Tenant shall keep the Demised Premises and such improvements free and clear of all mechanics' liens and other liens on account of work done for Tenant or persons claiming under it. (2) Tenant shall indemnify and save Landlord harmless against liability, loss, damages, costs, reasonable attorneys' fees, and all other reasonable expenses incurred by Landlord on account of claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished to Tenant or persons claiming under it. (3) In the event any lien is recorded and is not expunged or has expired on or before ninety (90) days of recording, Tenant shall, upon demand, furnish the bond described in California Civil Code Section 3143, or successor statute, which results in the removal of such lien from the Demised Premises.

b. Notice. (4) Should any claims of lien be filed against the Demised Premises or the improvements thereon, or any action affecting the title to the Demised Premises be commenced, the party receiving notice of such lien or action shall forthwith give the other party written notice thereof.

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13. Assignment and Subletting.

a. Post-Completion of Construction. From and after "completion of construction" (as defined in Section 13.c. below) of the Phase II Condominium Project, Tenant shall have the right to freely assign, sublease (in whole or in part or parts), mortgage, or otherwise encumber this Lease (in whole or in part or parts) or any sublease of all or any part of the Demised Premises and may permit its subtenant or subtenants to assign, sublease (in whole or in part or parts), mortgage or otherwise encumber this Lease or any sublease of all or any part of the Demised Premises, without requiring Landlord's consent therefor. Tenant agrees to furnish to Landlord written notice of the assignment of this Lease within thirty (30) days thereafter, together with the name and address of the assignee.

b. Prior to Completion of Construction. Prior to "completion of construction" (as defined in Section 13.c. below) of the Phase II Condominium Project, Tenant may assign, sublease (in whole or in part or parts), mortgage, or otherwise encumber this Lease (in whole or in part or parts) or any sublease of all or any part of the Demised Premises and may permit its subtenant or subtenants to assign, sublease (in whole or in part or parts), mortgage or otherwise encumber this Lease or any sublease of all or any part of the Demised Premises, only on the following terms and conditions:

(i) Mortgages or Other Encumbrances. Tenant and Tenant's permitted assignees and subtenants shall have the right to freely mortgage or otherwise encumber this Lease (in whole or in part or parts) or any sublease of all or any part of the Demised Premises, without requiring Landlord's consent therefor.

(ii) Assignment and Subletting. Neither Tenant nor any of Tenant's permitted assignees or subtenants shall have the right to assign or sublease (in whole or in part) this Lease (in whole or in part) or any sublease of all or any part of the Demised Premises without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld; provided, however, that Landlord's consent shall not be required for any assignment or sublease by Tenant to an "affiliate" of Tenant, defined as any entity which has a controlling interest in, is controlled by, or is under common control with Tenant with respect to the Demised Premises. Landlord and Tenant acknowledge that it shall be reasonable for Landlord to withhold its consent only in the following instances:

(A) The financial worth of the proposed assignee or subtenant is not, in Landlord's reasonable judgment, sufficient to ensure completion of the Phase II

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Condominium Project in accordance with the terms of this Lease and the Phase II Development Agreement and performance of all other terms, covenants and conditions of this Lease; and/or

(B) In Landlord's reasonable judgment, the proposed assignee lacks the technical and development expertise, know-how and experience sufficient to ensure completion of the Phase II Condominium Project in accordance with the Phase II Development Agreement and performance of all other terms, covenants and conditions of this Lease.

(iii) Procedure for Soliciting Consent. If Tenant desires at any time prior to "completion of construction" (as defined in Section 13.c below) to enter into an assignment or sublease of this Lease (in whole or in parts) or any sublease of all or any part of the Demised Premises, Tenant shall first give notice to Landlord of its intention to do so, which notice shall specify (a) the name of the proposed assignee or subtenant, (b) a reasonably current financial statement prepared by a certified public accountant and attested to by the proposed assignee or other equivalent financial information concerning the proposed assignee or subtenant, and (c) a verified statement describing the technical and development expertise, know-how and experience of the proposed assignee or subtenant, with emphasis given to the proposed assignee's or subtenant's ability to complete construction of the Phase II Condominium Project in accordance with the Phase II Development Agreement. At any time within forty-five (45) days after Landlord's receipt of said notice, Landlord may by notice to Tenant, (a) consent to the proposed assignment or sublease, or (b) not consent to the proposed assignment or sublease. If Landlord fails to notify Tenant of its decision within such forty-five (45) day period, Landlord shall be deemed to have consented to the proposed assignment or sublease. If Landlord gives timely notice to Tenant of its refusal to consent to the proposed assignment or sublease, Tenant may dispute the basis for such action by giving notice to Landlord of its election to do so within forty-five (45) days of Landlord's notice of refusal, and setting forth in such notice the basis for Tenant's dispute. Any such dispute which is not settled to the parties' mutual satisfaction within thirty (30) days following Tenant's notice of dispute shall be referred to arbitration in accordance with Section 48 of this Lease.

(iv) Certain Acts Constituting Assignment. The following acts of Tenant shall be deemed assignments for purposes of triggering the consent rights of Landlord under this Section 13.b.: (A) if Tenant or any permitted successor or assignee of Tenant is a partnership, a change in one or more general partners in the partnership, except by the death of a general partner and his replacement by a vote of the limited partners or by the remaining general partners; and (B) the sale,

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assignment or transfer of fifty percent (50%) or more of the stock in a corporation which is the general partner in a partnership which is Tenant or a permitted successor or assignee of Tenant.

c. Completion of Construction. For purposes of this Section 13, the phrase "completion of construction" shall mean substantial completion of construction, as evidenced by (i) a certificate of completion issued by Tenant's (or any permitted assignee's or subtenant's) project architect for the Phase II Condominium Project and Associated Improvements (or any portion thereof), including both public and private improvements, and (ii) a certificate by an officer of the City of Benicia Building Department attesting that the Building Department investigated and approved the existence of the facts upon which such project architect was required to issued his certificate and that the facts provide a reasonable basis for the issuance of such certificate of completion. If such officer declines to provide such certificate within ten (10) days after request by Tenant or otherwise disputes the facts upon which the project architect issued his certificate, or if the parties are otherwise unable to agree upon the date of completion of construction, the dispute shall be referred to arbitration in accordance with Section 48 of this Lease.

d. Obligations of Tenant After Assignment. Upon any assignment pursuant to this Section 13, Tenant shall be relieved of all further obligations hereunder and shall no longer have any liability under this Lease or with respect to the portion of Demised Premises or the Associated Improvements covered by the assignment, provided that each assignee or subtenant shall assume all obligations (and agree to cure all outstanding defaults, if any, on terms satisfactory to Landlord) of Tenant under this Lease with respect to the portion of the Demised Premises or the Associated Improvements assigned or sublet and Tenant shall deliver to Landlord a counterpart of the assignment or sublease, together with an instrument in recordable form that contains a covenant of assumption by the assignee or subtenant consistent with this Section 13.d.

e. Assignment or Subletting by Leasehold Mortgagee. Nothing in this Section 13 shall impair or be deemed to affect the rights of leasehold Mortgagees under Section 29 hereof. Without limiting the generality of the foregoing, from and after completion of construction, upon any default or acceleration of a leasehold Mortgage, the leasehold Mortgagee or its nominee may acquire and succeed to the Demised Premises and assign this Lease to any other person without requiring Landlord's consent therefor. Prior to completion of construction, a leasehold Mortgagee may assign, sublease or encumber this Lease only on the terms and conditions applicable to an assignment, sublease or encumbrance by Tenant provided for

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in Section 13.b. above. Any assignment of the Demised Premises by a leasehold Mortgagee shall be effective only upon the assignee's delivery to Landlord of a document evidencing the assignee's agreement to be bound by all of the terms of this Lease. Upon request of such assignee, Landlord shall enter into a new lease with the assignee on terms identical to the terms of this Lease, for a term coterminous with the remaining Term of this Lease, all in accordance with Section 29.f. below.

14. Indemnity.

a. Acts of Tenant and Third Parties. Tenant shall indemnify and save harmless Landlord from and against any and all cost, expense (including reasonable attorneys' fees), liability, damage, penalties or judgments arising from injury to person or property sustained by anyone in and about the Demised Premises resulting from or connected with the use or occupancy of the Demised Premises by Tenant, the physical condition of the Demised Premises, including soil conditions and the condition of improvements constructed or installed on the Demised Premises, and the existence, disposal, handling, leaching and/or managing of "hazardous materials," as defined in Section 25 of this Lease, or any act or acts or omission or omissions of Tenant, or Tenant's officers, agents, servants, employees, contractors, or sublessees, or any other cause whatsoever (including the concurrent negligence of third parties and Landlord) other than as set forth in Section 14.b. below. Tenant shall, at its own cost and expense, defend any and all suits or actions (just or unjust) which may be brought against Landlord or in which Landlord may be impleaded with others upon any such above-mentioned matter, claim or claims, except as may result from the acts set forth in Section 14b. below.

b. Acts of Landlord. Except for its active negligence or the active negligence of its officers, agents, servants, employees, or contractors, Landlord shall not be responsible or liable for any damage or injury to any property, fixtures, buildings, or other improvements, or to any person or persons, at any time on the Demised Premises, including any damage or injury to Tenant or to any of Tenant's officers, agents, servants, employees, contractors, customers, or sublessees.

c. Approval of Lease. Tenant shall indemnify, defend and hold Landlord harmless from and against any suits, claims, judgments, damages, losses, costs and liabilities, including reasonable attorneys' fees and court costs (collectively "Claims") Landlord may incur arising from any claim, litigation or action based on Landlord's approval and execution of this Lease, excepting only Claims arising from violations of (i) the Open Meeting Law, Government Code Section 54950 et seq., (ii) other laws governing Landlord's

deliberative procedures, to the extent Landlord has exclusive control of such procedures, (iii) the Political Reform Act, Government Code Section 87100 et seq., (iv) constructive or actual fraud by Landlord or any of Landlord's elected officials, employees, attorneys or other agents, or (v) any other instance or pattern of intentional wrongdoing or willful misconduct by Landlord or any of Landlord's elected officials, employees, attorneys or other agents.

15. Insurance.

a. Liability Insurance. Tenant shall provide at its expense, and keep in force during the term of this Lease, general liability insurance in a good and solvent insurance company or companies licensed to do business in the State of California, selected by Tenant, and reasonably satisfactory to the holder of any mortgage permitted pursuant to the provisions of Section 29 hereof (all of such mortgages being hereinafter collectively referred to as "Mortgages" and the holder(s) thereof as "Mortgagee(s)"), and to Landlord, in the amount of at least Five Million Dollars (\$5,000,000.00) with respect to injury or death to any one person and Five Million Dollars (\$5,000,000.00) with respect to injury or death to more than one person in any one accident or other occurrence, and Five Million Dollars (\$5,000,000.00) with respect to damages to property by any one person in any one occurrence and \$5,000,000.00 with respect to damages to property sustained by two or more persons in any one occurrence. Such policy or policies shall include Landlord and Landlord's city council members, officers, agents and employees and each such Mortgagee as assureds. Tenant agrees to deliver certificates of such insurance to Landlord on the Effective Date and thereafter not less than ten (10) days prior to the expiration of any such policy.

b. Property Insurance. During the term of this Lease, Tenant shall keep all buildings and improvements erected by Tenant on the Demised Premises at any time insured for the benefit of Landlord and Tenant and the holder of any such Mortgage as their respective interests may appear against loss or damage by fire and customary extended coverage in an amount equal to the full replacement cost of all such buildings and improvements. Before commencement of any demolition or construction on the Demised Premises, Tenant shall procure, and shall maintain in force until completion of the work, (i) worker's compensation insurance covering all persons employed by Tenant or by Tenant's contractors and subcontractors in connection with such work and with respect to whom death or injury claims could be asserted against any Mortgagee, Landlord, Tenant or the Demised Premises, and with Landlord, Tenant and any Mortgagee named as insureds, and (ii) "all-risks" builder's risk insurance, including vandalism and malicious mischief, in form and with a company reasonably acceptable to any Mortgagee,

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covering improvements in place and all material and equipment at the job site furnished under contract, in amounts equal to the value upon completion of the improvements which are the subject of the work (exclusive of items which are customarily excluded from such coverage), and with Landlord, Tenant and any Mortgagee named as loss payees, as their respective interests appear. In addition, as and to the extent Tenant has any employees performing services in or on the Demised Premises from and after completion of construction, Tenant shall maintain workers' compensation insurance as described above for such employees. All such policies or certificates thereof, shall be held by the holder of any such Mortgage, if any, or by Landlord, so long as there shall be no such Mortgages. All proceeds payable at any time and from time to time by any insurance company under such policies shall be payable to such Mortgagee, if any or, if none, to Tenant. If any such proceeds are paid to such Mortgagee, Tenant shall be entitled to receive the full amount thereof in accordance with the terms of such Mortgage, and Landlord shall not be entitled to, and shall have no interest in, such proceeds or any part thereof. Tenant agrees to use best efforts to secure the agreement of Mortgagees to commit the proceeds of casualty insurance received by such Mortgagees upon a casualty to the restoration and repair of the Demised Premises, subject to the requirements of applicable law. Any proceeds paid directly to Tenant shall be retained by Tenant, and Landlord shall not be entitled to, and shall have no interest in, such proceeds or any part thereof. Landlord shall, at Tenant's cost and expense, cooperate fully with Tenant in order to obtain the largest possible recovery and execute any and all consents and other instruments and take all other actions necessary or desirable in order to effectuate the same and to cause such proceeds to be paid as hereinbefore provided and Landlord shall not carry any insurance concurrent in coverage and contributing in the event of loss with any insurance required to be furnished by Tenant hereunder if the effect of such separate insurance would be to reduce this protection or the payment to be made under Tenant's insurance.

c. Blanket Policy Coverage. Any insurance required to be provided by Tenant pursuant to this Lease may be provided by blanket insurance covering the Demised Premises and other locations of Tenant, provided such blanket insurance complies with all of the other requirements of this Lease with respect to the insurance involved and such blanket insurance is acceptable to any Mortgagee.

d. Failure to Procure Insurance. In the event of Tenant's failure to procure or renew insurance as required by this Section 15, Landlord may, at its discretion, procure or renew such insurance and pay all premiums in connection therewith and all monies so paid by Landlord shall be repaid by Tenant to Landlord upon demand.

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e. Waiver of Subrogation. All insurance policies carried by either party covering the Demised Premises, including but not limited to contents, fire, and casualty insurance, shall expressly waive any right on the part of the insurer against the other party. The parties hereto agree that their policies will include such waiver clause or indorsement so long as the same shall be obtainable without extra cost, or if extra cost shall be charged therefor, so long as the other party pays such extra cost. If extra cost shall be chargeable therefor, each party shall advise the other thereof and of the amount of the extra cost, and the other party, at its election, may pay the same, but shall not be obligated to do so.

f. No Limitation on Indemnity. The insurance coverage required under this Section 15 shall not operate to limit Tenant's obligation to indemnify Landlord as provided in Section 14 of this Lease, but such insurance may be applied towards satisfaction of such indemnity obligations.

g. Proof of Coverage; Coverage Satisfactory to Landlord. All insurance policies required under this Section 15 shall be satisfactory to Landlord in its reasonable discretion and shall be provided by companies having a Best's rating of "AA" or better (and if Best's no longer provides such ratings, an equivalent rating, if available). Certificates or duplicate originals of all policies shall be delivered to Landlord as soon as available, and shall be in full force and effect on or before the Effective Date. As often as any such policies shall expire or terminate, renewal or additional policies shall be procured and maintained in like manner and to like extent during the term of this Lease. All policies of insurance shall provide that the same shall be noncancellable or subject to reduction in the amounts of coverage without thirty (30) days' written notice to Landlord, and to each Mortgagee.

h. Periodic Review of Coverage Amounts. The amounts and extent of coverage of property insurance and general liability insurance policies shall be subject to adjustment every five (5) years during the Term, based on the parties' review of such amounts and extent of coverage in consultation with their respective insurance advisors, and based on then-customary insurance requirements for facilities of size, value and operation similar to the Demised Premises and its improvements. If the parties are unable to agree upon adjustments to the amounts of insurance or extent of coverage within thirty (30) days after a written request by one party to the other for an adjustment, the determination of appropriate amounts of coverage or extent of coverage made by an independent insurance advisor jointly selected by the parties' insurance advisors shall be binding upon the parties.

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16. Damage and Destruction.

a. Insured Casualty. If the Demised Premises or the improvements constructed or installed thereon ("Improvements") are damaged or destroyed due to any cause substantially within the scope of any policy of insurance required to be maintained by Tenant under this Lease, Tenant shall, to the extent permitted by law, promptly commence and diligently complete the restoration of the improvements as nearly as possible to their condition prior to the damage or destruction (with such changes, alterations and modifications as may be desired by Tenant and as will not materially impair the value or character of the Demised Premises). In the event Tenant is obligated or elects to restore the Demised Premises, all proceeds of any policy of insurance maintained by Tenant under this Lease shall, to the extent necessary, be used by Tenant for that purpose. Landlord shall cooperate with Tenant and assist Tenant to the extent necessary or desirable in the process of adjusting and settling insurance claims. In the event Tenant is obligated or elects to restore the Demised Premises and the Improvements, Tenant shall advance any deficiency between the amount of insurance proceeds available for the work of restoration and the actual cost thereof; and any excess insurance proceeds shall belong to Tenant.

b. Uninsured Casualty. In the event that the Demised Premises, the Improvements or any portion thereof are damaged or destroyed from any cause not substantially covered under insurance required to be carried by Tenant under this Lease, then:

(i) If the cost of such repair and restoration is less than twenty-five percent (25%) of the replacement cost of the entire Improvements prior to such damage or destruction (or, if the cost of such repair and restoration is twenty-five percent (25%) or more of the replacement cost of the entire Improvements prior to such damage or destruction, but Tenant nonetheless, at its sole option, elects to restore the Improvements), then Tenant shall, to the extent permitted by law, perform the work required to restore the Improvements to their condition prior to the damage or destruction as provided in Section 16.a, and this Lease shall remain in full force and effect.

(ii) In the event that subparagraph 16.b(i) does not apply and Tenant elects not to restore, Tenant shall have the right to terminate this Lease (provided Tenant first obtains the approval of any leasehold Mortgagee whose approval is required by the terms of its leasehold Mortgage) by notice given to Landlord within ninety (90) days after the date of such damage or destruction, which termination shall be effective thirty (30) days after the date of such notice, and

rent and other charges shall be apportioned as of the date of termination. Upon termination, Tenant shall deliver possession of the Demised Premises and any remaining Improvements to Landlord and quitclaim to Landlord all of Tenant's right, title and interest in and to Demised Premises and any remaining Improvements therein. Tenant shall also remove all debris and put the Demised Premises and remaining Improvements in a safe condition. Thereupon, this Lease shall terminate and the parties shall have no further obligations to each other excepting those previously accrued but theretofore unsatisfied.

(iii) The foregoing subparagraphs 16.b(i) and (ii) notwithstanding, in the event of substantial damage or destruction to the Improvements from any cause (insured or uninsured) during the last ten (10) years of the Term where the cost of repair and replacement is twenty-five percent (25%) or more of the replacement cost of the entire Improvements prior to such damage, then Tenant shall have the right to terminate this Lease (provided Tenant first obtains the approval of any leasehold Mortgagee whose approval is required by the terms of its leasehold Mortgage) by notice given to Landlord within ninety (90) days of the date of such damage or destruction, said termination to be effective thirty (30) days from the date of the notice, and rent and other charges shall be apportioned as of the date of termination. Upon termination, Tenant shall deliver possession of the Demised Premises and any remaining Improvements to Landlord and quitclaim to Landlord all of Tenant's right, title and interest in and to Demised Premises and any remaining Improvements therein. Tenant shall also remove all debris and put the Demised Premises and remaining Improvements in a safe condition. Thereupon, this Lease shall terminate and the parties shall have no further obligations to each other excepting those previously accrued but theretofore unsatisfied. If a dispute arises under this Section 16 as to the extent of damage, destruction or insurance coverage, either Landlord or Tenant may initiate arbitration to resolve such dispute in accordance with the provisions of Section 48 hereof.

c. Distribution of Insurance Proceeds . In the event of an election by Tenant to terminate and surrender as provided in Section 16.b, the priority and manner for distribution of the proceeds of any insurance policies required by this Lease to be maintained by Tenant shall be as follows:

(i) First, to pay the reasonable expenses of Landlord, Tenant and any Mortgagees in obtaining such proceeds;

(ii) Second, to pay for the cost of removal of all debris from the Demised Premises and for the cost of any work or service required by applicable law for the protection of persons or property from any risk, or for the

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abatement of any nuisance, created by or arising from the casualty or the damage or destruction caused thereby;

(iii) Third, to compensate Landlord for any diminution in the value (as of the date of the damage or destruction) of the fee interest in the Demised Premises as unimproved land caused by or arising from the damage or destruction (other than damage or destruction neither required to be, nor actually, insured against under this Lease); and

(iv) Fourth, the balance of the proceeds to Tenant (or to any leasehold Mortgagee if its leasehold Mortgage so provides) to compensate Tenant for the loss of ownership and use of the Demised Premises for the remainder of the Term.

d. Rent. In the event of damage or destruction, Tenant shall remain obligated to pay the rent and other charges to be paid or discharged under this Lease until the date whereon Tenant notifies Landlord of its election to exercise its right, if any, to terminate this Lease as a consequence of the damage or destruction, and such rent and other charges shall be apportioned as of the date of termination.

e. Determination of Extent of Destruction; Interference with Use. For the purposes of Section 16.b(i), the extent of destruction of the Improvements shall be determined by dividing the established cost of replacement or restoration as evidenced by estimates prepared by licensed general contractors hired by Tenant and reasonably acceptable to Landlord by the full replacement cost of the Improvements, applying thereto the percentage change in construction cost for the applicable period based upon the Engineering News Record average construction cost index for such period, applicable to the San Francisco-Oakland Area, or in the absence of such index, a similar index prepared for such area.

f. Waiver. The provisions of this Section 16 shall govern the rights of the parties in the event of any full or partial destruction of the Improvements. Tenant hereby waives the provisions of Civil Code Section 1932(2) and Civil Code Section 1933(4) and any similar successor statute or law with respect to any destruction of the Demised Premises or the Improvements.

17. Taxes and Assessments. Tenant 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 Tenant may have in or to the Demised Premises or to the improvements thereon by reason of its use or occupancy thereof or otherwise, as well as all

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taxes, assessments, fees, and charges on goods, merchandise, fixtures, appliances, equipment, and property owned by it in, on, or about the Demised Premises. Landlord agrees to cause the tax assessor of Solano County to make such changes to the County's tax rolls as may be necessary to conform such records to the terms of this Lease and the Other Master Leases.

18. Accounting and Records. In order to determine the amount of and provide for the payment of the rental due hereunder, Tenant shall at all times during the term of this Lease, and for twelve (12) months thereafter, keep, or cause to be kept to the satisfaction of Landlord, true, accurate, and complete records and double-entry books of account, such records to show all transactions relative to the conduct of operations, and to be supported by documents of original entry where available, or kept in the ordinary course of Tenant's business but Tenant shall be obligated to keep books, records and other materials described above pertaining to any Lease Year only for a period of five (5) years following the end of such Lease Year.

No later than the 60th day following the end of each Lease Year, Tenant shall render to Landlord a detailed statement showing Ground Rental receipts and receivables for such Lease Year, together with the amount payable to Landlord under Section 9 hereof, if any, and shall accompany same with remittance of amounts so shown to be due.

Books of account and records hereinabove required shall be kept or made available at Tenant's principal place of business, and Landlord shall have the right at any and all reasonable times to examine and audit said books and records without restriction for the purpose of determining the accuracy thereof and of the annual statements of Ground Rental. Landlord shall pay all costs of such audits, provided that if Landlord's audit shows a variance in Landlord's favor between amounts payable under the Lease for the period audited and amounts actually paid by Tenant during such period in amounts equal to five percent (5%) or greater of the amounts determined by the audit to be payable, Tenant shall pay the costs of such audit, plus the amount of any variance. If Tenant disputes the methodology or conclusion of Landlord's audit, such dispute shall be settled by arbitration in accordance with the requirements of this Lease.

19. Development and Construction of Condominium Project.

a. Phase II Development Agreement. Tenant proposes to build on the Demised Premises the Phase II Condominium Project and to build the Associated Improvements. The parties intend to enter into the Phase II Development Agreement, which shall set forth various matters affecting the

use of the Demised Premises, the exactions and dedications required of Tenant by Landlord for approval of the Phase II Condominium Project and the Associated Improvements, Landlord's design guidelines governing the Phase II Condominium Project and the Associated Improvements and the timetables for procuring various governmental approvals. The Phase II Development Agreement shall govern the parties' rights and obligations regarding the development of the Phase II Condominium Project and the Associated Improvements. Tenant covenants to make written application for the Phase II Development Agreement to the appropriate agencies of the City of Benicia having jurisdiction within ninety (90) days following the Execution Date and to work diligently to comply with all laws, rules and regulations governing the application process. Landlord covenants to cause its agencies having jurisdiction to respond to and process Tenant's application in a timely manner, it being the parties' intention to negotiate and finalize the Phase II Development Agreement as soon as practicable.

b. Selection of Builder; EIR Supplements.

Promptly following the Effective Date of this Lease, Tenant, or a consultant designated by Tenant to act on its behalf, shall prepare and distribute a Request for Qualifications and Request for Proposals ("RFQ/RFP") to persons and firms which Tenant in its sole discretion deems to be qualified to develop and construct the Phase II Condominium Project and the Associated Improvements. Tenant shall communicate and consult with Landlord regarding the selection of a qualified builder ("Builder") for the same. Tenant, or Tenant's consultant, shall participate with the Builder so selected in subsequent design review, planning and permitting procedures. Upon request by Tenant, including submittal of application forms and materials and payment of fees required by Landlord, Landlord shall prepare, process and as necessary certify any supplements, amendments or other changes to the 1977 Environmental Impact Report for the Project Master Area pursuant to the California Environmental Quality Act, as amended.

c. Construction Standards.

(i) General Construction Standards. All construction, alteration or repair work undertaken pursuant to this Lease, once begun, shall be accomplished expeditiously and diligently in accordance with the terms of this Lease and the Phase II Development Agreement (to the extent the same is then in force and effect). Tenant shall take all reasonable measures to minimize any damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected thereby. Tenant 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 conditions which is equal to or better than the

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condition which existed prior to the beginning of such work. Dust, noise and other effects of such work shall be controlled using the best accepted methods customarily utilized in order to control such deleterious effects associated with construction projects in a populated or developed area.

(ii) Utility Work. Any work performed by or on behalf of Tenant or any occupant or sublessee to connect to, repair, relocate, maintain or install any storm drain, sanitary sewer, water line, gas line, telephone conduit or any other public utility service shall be performed so as to minimize interference with the provision of such services to occupants and other persons.

(iii) Compliance with Construction Documents and Laws; Issuance of Permits. All improvements on the Demised Premises shall be constructed in compliance with any construction documents approved by Landlord and also in compliance with all applicable local, state and federal laws and regulations.

(iv) Construction Safeguards. Tenant shall erect and properly maintain at all times, as required by the conditions and the progress of work performed by Tenant, all necessary safeguards for the protection of workers and the public.

(v) Obtain Financing. Tenant covenants to obtain and assemble all financing and equity capital necessary for construction of improvements contemplated by Tenant prior to commencing construction of such improvements.

(vi) Architect's Plans. Tenant shall use best efforts to negotiate in any contract with any design architect hired in connection with any construction undertaken on the Demised Premises or with respect to the Associated Improvements, a provision to the effect that in the event Landlord succeeds to Tenant's rights under this Lease prior to completion of the construction which is the subject of such contract, the architect will permit Landlord to use the plans and designs prepared by the architect in order to complete construction. Landlord's rights in any such contract and plans shall in all cases be subject to the rights of Mortgagees.

(vii) Conditions of Commencement of Construction. In no event shall Tenant commence any substantial construction on the Demised Premises until the following conditions have been satisfied or waived by Landlord, in addition to other conditions and requirements imposed by the Phase II Development Agreement (to the extent the same is then in force and effect) or this Lease:

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(A) Landlord has approved Tenant's final plans and specifications for the improvements;

(B) Tenant has obtained building permits and all other governmental approvals necessary for the construction of the improvements;

(C) Tenant has entered into complete and binding contracts with its contractor or contractors for the construction of the improvements; and

(D) Tenant has complied with the provisions of Section 20 of this Lease.

20. Performance and Surety Bonds. Prior to commencing any construction pursuant to the Phase II Development Agreement or this Lease, Tenant shall furnish to Landlord a contractor's completion bond of a surety company licensed to do business in California, naming Landlord as an obligee and conditioned on the completion of the Phase II Condominium Project and the Associated Improvements in accordance with the plans and specifications approved by the Landlord. Such bond shall be in such amount and in such form, and issued by a surety, all as Landlord shall reasonably approve. The bond may also include as an obligee any leasehold Mortgagee acting as construction lender for the Phase II Condominium Project and the Associated Improvements. In lieu of a completion bond, Tenant may deliver to Landlord a performance and payment bond of a surety company as above-described, procured by Tenant's construction contractor as obligor, and naming Tenant, Landlord and any leasehold Mortgagee acting as construction lender as obligees, as their interests may appear. Such bonds shall be in the amount of the estimated cost of the construction of the Phase II Condominium Project and the Associated Improvements as set forth in the construction contract between Tenant and Tenant's construction contractor. In lieu of any of the bonds above-described, Tenant may furnish to Landlord as security for Tenant's completion of construction of the Phase II Condominium Project and the Associated Improvements such other bond, letter of credit, undertaking, or financial instrument as Landlord shall find reasonably acceptable.

21. Grant of Option to Purchaser and Notice of Exercise. Landlord shall grant to Tenant an option to purchase Landlord's entire right, title and interest in and to the Demised Premises pursuant to a certain "Option to Purchase Fee Title to Real Property and Exercise of Option ("Phase II Option to Purchase") in the form attached to this Lease as Exhibit B. The parties have jointly commissioned a letter appraisal from an MAI appraiser to be paid for in equal shares by Landlord and Tenant showing the difference in value between (i) the value of Landlord's interest in the Demised Premises, as encumbered by

the Original Master Lease and Original Master Sublease, and (ii) the value of Landlord's interest in the Demised Premises, as encumbered by this Lease and the Other Leases, and the Phase II Option to Purchase. Landlord and Tenant shall execute (with notary public acknowledgment), deliver and record in Solano County Official Records the Phase II Option to Purchase on the Effective Date of this Lease and contemporaneously with the execution and recording of the short form memorandum of this Lease referenced below.

22. Entry by Landlord. Landlord and its duly authorized representatives or agents may enter upon the Demised Premises at any and all reasonable times during the term of this Lease for the purpose of determining whether or not Tenant is complying with the terms and conditions hereof, or for any other purpose incidental to the rights of Landlord; provided that Landlord shall at no time interfere with the business activities and quiet enjoyment of Tenant and Tenant's sublessees on the Demised Premises.

23. Utilities. In addition to the rental charges as herein provided, Tenant shall pay all service charges for furnishing water, power, sewage disposal, light, telephone service, garbage, and trash collection, and all other utilities, to the Demised Premises.

24. Signs and Awnings. No signs or awnings shall be erected or maintained upon the Demised Premises other than inside any buildings constructed by Tenant or a subtenant, except such signs as show the business or profession of Tenant or such subtenant. All such signs shall be consistent with the Benicia sign ordinance and the design guidelines adopted for the Project Master Area by Landlord as set forth in the Phase II Development Agreement described above.

25. Hazardous Substances. No goods, merchandise, or material shall be kept, stored, generated, produced, disposed of, transported to or from, used or sold in or on the Demised Premises which constitute "hazardous materials" (as hereinafter defined); and no offensive or dangerous trade, business, or occupation shall be carried on therein or thereon, and nothing shall be done on the Demised Premises which will cause an increase in the rate of or cause a suspension or cancellation of the insurance upon said or other premises and the improvements thereon. No machinery or apparatus shall be used or operated on the Demised Premises which will in any way injure said premises, or improvements thereon, or adjacent or other premises, or improvements thereon. Notwithstanding the foregoing, Tenant shall be permitted to bring, keep or use on or about the Demised Premises such materials, supplies, equipment, and machinery (including "hazardous materials," as hereinafter defined) as are appropriate or customary in developing, constructing and

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operating the Phase II Condominium Project or in making any necessary repairs or in carrying on its business in all usual respects so long as all such activities of Tenant are in compliance with applicable law and regulation. For purposes of this Lease, "hazardous materials" are defined as (but shall not be limited to) flammable explosives, asbestos, radioactive materials, hazardous waste, toxic substances or related injurious materials, whether injurious by themselves or in combination with other materials, substances defined as "hazardous substances", "hazardous materials", or "toxic substances", in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; and those substances defined as "hazardous waste" in Section 25117 of the California Health and Safety Code or as "hazardous substances" in Section 25316 of the California Health and Safety Code; and in the regulations adopted and publications promulgated pursuant to said laws. Tenant acknowledges that Tenant is not looking to or relying upon Landlord to disclose any matters which Landlord might be required to disclose under California Health & Safety Code /25359.7, and that all such matters have been investigated by Tenant to Tenant's satisfaction as provided in Section 2.b. of this Lease.

26. Eminent Domain.

a. Definitions. The following definitions apply in construing provisions of this Lease relating to the taking of or damage to all or any part of the Demised Premises or improvements or any interest in them by eminent domain or inverse condemnation:

(1) Taking means the taking or damaging, including severance damage, by eminent domain or by inverse condemnation or for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation, in avoidance of an exercise of eminent domain, or while condemnation proceedings are pending. The taking shall be considered to take place as of the later of (1) the date actual physical possession is taken by the condemner or (2) the date on which the right to compensation and damages accrues under the law applicable to the premises;

(2) Total taking means the taking of the fee title to all the Demised Premises and the improvements on the Demised Premises, which shall be considered to include any off-site improvements effected by Tenant to serve the Demised Premises or the improvements on the Demised Premises;

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(3) Substantial taking means the taking of so much of the Demised Premises or improvements or both that the following condition results: A reasonable amount of reconstruction would not make the land and improvements a practical improvement and reasonably suited for Tenant's continued occupancy for the uses and purposes for which the Demised Premises are leased;

(4) Partial taking means any taking of the fee title that is not either a total or a substantial taking;

(5) Improvements means all products of skill, artifice, plan or design for construction on, modification of, or planned use of existing structures, natural or cultivated, or earth contours on the Demised Premises, including but not limited to: buildings, structures, fixtures, fences, utility installations, excavations, surfacing, water banks or channels and grading; ornamental trees, bushes and vines, whether occurring on the Demised Premises naturally or implicate by human design or effort, and whether coming into being on the Demised Premises before or after commencement of the term; landscaping, ground cover, crops, planting, and earth contours forming part of a landscaping design; and artistic and ornamental components of any of the above;

(6) Notice of intended taking means any notice or notification on which a reasonably prudent man would rely and which he would interpret as expressing an existing intention of taking as distinguished from a mere preliminary inquiry or proposal. It includes, but is not limited to, a resolution of necessity and condemnation complaint on a party to this Lease. The notice is considered to have been received when a party to this Lease receives from the condemning agency or entity a notice of intent to take in writing, containing a description or a map of the taking reasonably defining the extent of the taking; and

(7) Award means compensation paid for the taking whether pursuant to judgment or by agreement or otherwise.

b. Notice to Other Party. The party receiving any notice of the kinds specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

(1) Notice of intended taking;

(2) Service of any legal process relating to condemnation of the Demised Premises or improvements;

(3) Notice in connection with any proceedings or negotiations with respect to such a condemnation; or

(4) Notice of intent or willingness to make or negotiate a private purchase, sale or transfer in lieu of condemnation.

c. Representative of Each Party; Effectuation. Landlord, Tenant and all persons and entities holding under Tenant shall each have the right to represent his or its respective interest in each proceeding or negotiation with respect to a taking or intended taking and to make full proof of his or its claims. No agreement, settlement, sale or transfer to or with the condemning authority shall be made without the consent of Landlord and Tenant. Landlord and Tenant each agrees to execute and deliver to the other any instruments that may be required to effectuate or facilitate the provisions of this Lease relating to condemnation.

d. Total or Substantial Taking; Effect on Rent and Term:

(1) Total Taking. On a total taking, Tenant's obligation to pay rent shall terminate on the date of taking, but Tenant's interest in the leasehold estate shall continue until the taking is completed by deed, contract or order of final condemnation.

(2) Substantial Taking. If the taking is substantial under the definition appearing in Section 26.a(3) hereof, Tenant may, by notice to Landlord given within thirty (30) days after Tenant receives notice of intended taking, elect to treat the taking as a substantial taking. If Tenant does not so notify Landlord, the taking shall be deemed a partial taking. If Tenant gives such notice and Landlord gives Tenant notice disputing Tenant's contention within sixty (60) days following Tenant's notice, the dispute shall be promptly determined by arbitration as provided in Section 48 of this Lease. A substantial taking shall be treated as a total taking if (i) Tenant delivers possession to Landlord within ninety (90) days after determination that the taking was a substantial taking, and (ii) Tenant is not in default under this Lease and has complied with all Lease provisions concerning apportionment of the award. If these conditions are not met, the taking shall be treated as a partial taking.

e. Early Delivery of Possession. Tenant may continue to occupy the Demised Premises and improvements until the condemner takes physical possession. However, at any time following notice of intended total taking, or within the time limit specified for delivering possession in the provision on

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substantial taking, Tenant may elect to deliver possession of the Demised Premises to Landlord before the actual taking. The election shall be made by notice declaring the election and covenanting to pay all rents required under this Lease to the date of taking. Tenant's right to apportionment of or compensation from the award shall then accrue as of the date that Tenant goes out of possession.

f. Apportionment, Distribution of Award for Total Taking. On a total taking, all sums, including damages and interest awarded for the fee, shall be promptly deposited with an escrow agent, acceptable to Landlord and Tenant, and shall be distributed and disbursed by it in the following order of priority:

First: To discharge all real and personal property taxes and assessments constituting a lien on the Demised Premises and improvements, less such prorata share thereof allocable by State law to the condemner cancelable upon consummation of said taking; all such amounts so paid to be charged against and deducted from Tenant's share of said award.

Second: To Landlord, a sum equal to the value of the leased lands taken, valued exclusive of improvements as unimproved land, but subject to this Lease, the condominium subleases for the Phase II Condominium Project and the Phase II Option to Purchase; and, in case of a partial taking, treated as a substantial taking as defined in Section 26.a(3) hereof, plus the resulting or consequential (severance) damages, if any, to the remaining part of the leased lands, considered as vacant, unencumbered and unleased lands.

Third: To Landlord and to Tenant their respective expenses or disbursements reasonably and necessarily paid or incurred for or in connection with the condemnation proceedings.

Fourth: To any leasehold Mortgagee, the balance owing on the note secured by such leasehold Mortgage.

Fifth: The balance of the total award shall be paid to Tenant.

g. Partial Taking; Effect on Lease and Term. On a partial taking, this Lease shall remain in full force and effect, covering the remaining property, except that the minimum annual rental shall be reduced in the same ratio as the value of the portion of the Demised Premises taken (after deducting



expenses of collection, including any attorneys' fees and restoration costs) bears to the value of the entire Demised Premises as of the date of taking possession, excluding improvements then in existence.

h. Restoration of Improvements. Promptly after a partial taking, at Tenant's expense and in the manner specified in provisions of this Lease relating to maintenance, repairs and alterations, Tenant shall repair, alter, modify or reconstruct the improvements (hereinafter referred to as "restoring") so as to make them reasonably suitable for Tenant's continued occupancy for the uses and purposes for which the Demised Premises are leased. If the reasonably estimated cost of the work represents more than twenty-five percent (25%) of the then fair market value of the leasehold improvements before the taking, Tenant may, in the manner provided for a substantial taking, elect to treat the taking as substantial. If Tenant does not repair, alter, modify or reconstruct if required as above (herein called "repair"), the cost of such repair shall be deducted from Tenant's share of the award and paid to any leasehold Mortgagee demanding it, and otherwise to Landlord. If Landlord disputes Tenant's good faith business judgment or the reasonableness of Tenant's estimates, as provided herein, such dispute shall be settled by arbitration in accordance with Section 48 of this Lease.

i. Apportionment, Distribution of Award for Partial Taking. On a partial taking, all sums, including damages and interest, awarded for the fee title or the leasehold or both, shall be deposited promptly with an escrow agent, acceptable to Landlord and Tenant, and shall be distributed and disbursed in the following order of priority:

First: To the cost of restoring the leasehold improvements, plus any amount assessed, awarded, paid or incurred to remove or relocate subtenants, plus any amount awarded for detriment to business.

Second: To Landlord a sum equal to the fair market value of the lands taken, valued as unimproved land, exclusive of improvements, but subject to this Lease, the Phase II CC&R's, the Phase II Condominium Subleases, and the Phase II Option to Purchase, plus the resulting or consequential (severance) damages, if any, to the remaining part of the leased lands, considered as vacant, unencumbered and unleased lands. Landlord may, at Landlord's election, direct disbursement of this portion to Cal Boating.

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Third: To Landlord and to Tenant their respective expenses or disbursements reasonably and necessarily paid or incurred for or in connection with the condemnation proceedings.

Fourth: To a leasehold Mortgagee a sum equal to any decrease in its security resulting from the taking.

Fifth: To Tenant the balance thereof.

j. Taking of Less Than Fee Title. On the taking, other than a fee title interest in the Demised Premises or improvements or both, the question whether the taking is total, substantial or partial, and the effects on term, rent and apportionment of award shall be determined by arbitration as provided in Section 48 of this Lease or by the court hearing the condemnation if it goes to trial.

k. Waivers. Landlord and Tenant expressly waive the provisions of CCP Sections 1265.110 through 1265.160 to the extent the same are inconsistent with the terms of this Section 26.

27. Sublease. If for any reason this Lease and the leasehold estate of Tenant hereunder is terminated by Landlord by summary proceedings or otherwise in accordance with the terms of this Lease, Landlord covenants and agrees that, provided that all obligations of Tenant which have been delegated to the sublessees under subleases in accordance with Section 30 hereof are not then in default, such termination of this Lease shall not result in a termination of any sublease affecting the Demised Premises and that all such subleases shall continue for the duration of their respective terms and any extensions thereof as direct leases between Landlord hereunder and the sublessees thereunder, with the same force and effect as if Landlord hereunder had originally entered into such sublease as Landlord thereunder (subject, however, to the prior right of the holder of any leasehold Mortgage), and Landlord shall recognize the rights of such sublessees under such subleases, and such sublessees shall attorn to Landlord with respect to the same. Any such sublessee which is named or joined in any action or proceeding by Landlord under this Lease to recover possession of the Demised Premises or for any other relief shall not be required to appear in or defend its interests, unless the matters complained of involve acts of sublessees relating to obligations under this Lease which Tenant has delegated and passed through to such sublessees pursuant to Section 30 of this Lease. Landlord shall, upon request, execute, acknowledge, and deliver such agreements evidencing and agreeing to the foregoing as each sublessee shall require. Notwithstanding the foregoing, upon any termination of this Lease by reason of an election to

do so by Tenant pursuant to a right granted Tenant under this Lease (or by the association of unit owners in the Phase II Condominium Project to which Tenant has delegated its rights of termination pursuant to Section 30 of this Lease, or by such unit owners themselves), the termination of this Lease shall result in the termination of the subleases of such unit owners as well.

28. No Mortgages of Fee Interest. Landlord hereby covenants and agrees that during the term of this Lease, Landlord shall not have the right or power to mortgage or otherwise create any security or other liens or encumbrances upon or affecting the fee interest in the Demised Premises, or buildings, improvements, fixtures, equipment or other property thereon, or any part thereof, at any time and from time to time.

29. Leasehold Mortgages. Tenant and every successor and assign of Tenant (including, but not limited to, any sublessee of Tenant, but only with Tenant's prior consent) is hereby given the right by Landlord in addition to any other rights herein granted, without Landlord's prior written consent, to mortgage its interests in this Lease, or any part or parts thereof, and any sublease(s) under one or more first leasehold Mortgage(s) and/or under a purchase money first or second leasehold Mortgage(s) in connection with any sale of such interest, and assign this Lease, or any part or parts thereof, and any sublease(s) as collateral security for such Mortgage(s), upon the condition that all rights acquired under such Mortgage(s) shall be subject to each and all of the covenants, conditions, and restrictions set forth in this Lease, and to all rights and interests of Landlord herein, none of which covenants, conditions, or restrictions is or shall be waived by Landlord by reason of the right given so to mortgage such interest in this Lease, except as expressly provided herein. If Tenant and/or Tenant's successors and assigns (including, but not limited to, any sublessee of Tenant, but only with Tenant's prior consent) shall mortgage this leasehold, or any part or parts thereof, and if the holder(s) of such mortgage(s) shall, within thirty (30) days of its execution, send to Landlord a true copy thereof, together with written notice specifying the name and address of the Mortgagee and the pertinent recording date with respect to such Mortgage(s), Landlord agrees that so long as any such leasehold Mortgage(s) shall remain unsatisfied of record or until written notice of satisfaction is given by the holder(s) to Landlord, the following provisions shall apply:

a. No Cancellation. There shall be no cancellation, surrender, or modification of this Lease by joint action of Landlord and Tenant without the prior consent in writing of the leasehold Mortgagee(s), if such consent is required.

b. Notices. Landlord shall, upon serving Tenant with any notice of default, simultaneously serve a copy of such notice upon the holder(s) of such leasehold Mortgage(s). The leasehold Mortgagee(s) shall thereupon have a period of time, after service of such notice upon it, equal to the time provided to Tenant under this Lease to cure or remedy such defaults, plus ninety (90) days, to remedy or cause to be remedied the defaults complained of, and Landlord shall accept such performance by or at the instigation of such leasehold Mortgagee(s) as if the same had been done by Tenant or any subtenant to whom Tenant has delegated such performance.

c. Cure of Defaults. Anything herein contained notwithstanding, while such leasehold Mortgage(s) remains unsatisfied of record, or until written notice of satisfaction is given by the holder(s) to Landlord, if any default shall occur which, pursuant to any provision of this Lease, entitles Landlord to terminate this Lease, and if, before the expiration of ten (10) days from the date of service of notice of termination upon such leasehold Mortgage(s), such leasehold Mortgagee(s) shall have notified Landlord of its desire to nullify such notice and shall have paid to Landlord all rent and additional rent and other payments herein provided for, and then in default, and shall have complied or shall commence the work of complying with all of the other requirements of this Lease, if any are then in default, and shall prosecute the same to completion with reasonable diligence, then in such event Landlord shall not be entitled to terminate this Lease and any notice of termination theretofore given shall be void and of no effect.

d. Extensions. If the Landlord shall elect to terminate this Lease by reason of any default of Tenant, the leasehold Mortgagee(s) shall not only have the right to nullify any notice of termination by curing such default, as aforesaid, but shall also have the right to postpone and extend the specified date for the termination of this Lease as fixed by Landlord in its notice of termination, for a period of not more than six (6) months, provided that such leasehold Mortgagee(s) shall cure or cause to be cured any then existing money defaults and meanwhile pay the rent, additional rent and comply with and perform all of the other terms, conditions, and provisions of this Lease on Tenant's part to be complied with and performed, other than past nonmonetary defaults, and provided further that the leasehold Mortgagee(s) shall forthwith take steps to acquire or sell Tenant's interest in this Lease by foreclosure of the Mortgage(s) or otherwise and shall prosecute the same to completion with all due diligence. If, at the end of said six (6) month period, the leasehold Mortgagee(s) shall be actively engaged in steps to acquire or sell Tenant's interest herein, the time of said leasehold Mortgagee to comply with the provisions of this Section 29 shall be extended for such period

as shall be reasonably necessary to complete such steps with reasonable diligence and continuity.

e. Insurance. Landlord agrees that the name of the leasehold Mortgagee(s) may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant hereunder on condition that the insurance proceeds are to be applied in the manner specified in this Lease and that the leasehold Mortgage(s) or collateral document shall so provide.

f. New Lease. Landlord agrees that in the event of termination of this Lease by reason of any default by Tenant other than for nonpayment of rent or additional rent and other payments herein provided for, that Landlord will enter into a new lease of the Demised Premises with the leasehold Mortgagee(s) or its nominee(s), for the remainder of the term, effective as of the date of such termination, at the rent and additional rent and upon the terms, provisions, covenants, and agreements as herein contained and subject only to the same conditions of title as this Lease is subject to on the date of the execution hereof, and to the rights, if any, of any parties then in possession of any part of the Demised Premises, provided:

(1) Said Mortgagee(s) or its nominee(s) shall make written request upon Landlord for such new lease within fifteen (15) days after the date of such termination and such written request is accompanied by payment to Landlord of sums then due to Landlord under the Lease.

(2) Said Mortgagee(s) or its nominee(s) shall pay to Landlord at the time of the execution and delivery of said new lease, any and all sums which would at the time of execution and delivery thereof, be due pursuant to this Lease but for such termination, and in addition thereto, any expenses, including reasonable attorneys' fees, to which Landlord shall have been subjected by reason of such default.

(3) Said Mortgagee(s) or its nominee(s) shall perform and observe all covenants herein contained on Tenant's part to be performed and shall further remedy any other conditions which Tenant under the terminated Lease was obligated to perform under the terms of this Lease; and upon execution and delivery of such new lease, any subleases which may have theretofore been assigned and transferred by Tenant to Landlord, as security under this Lease, shall thereupon be deemed to be held by Landlord as security for the performance of all the obligations of tenant under the new lease.

(4) Landlord shall not warrant possession of the Demised Premises to tenant under the new lease.

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(5) Such new lease shall be expressly made subject to the rights, if any of Tenant under the terminated Lease.

(6) The tenant under such new lease shall have the same right, title, and interest in and to the buildings and improvements on the Demised Premises as Tenant had under the terminated Lease.

(7) Landlord's execution and delivery of such new lease for the Demised Premises shall be made without representation or warranty of any kind or nature whatsoever, either express or implied, including, without limitation, any representation or warranty regarding title to the Demised Premises or any improvements or the priority of such new lease.

(8) If more than one leasehold Mortgagee requests a new lease, Landlord shall have no duty or obligation to determine the relative priority of the underlying leasehold Mortgages, and Landlord shall not be required to enter a new lease with any claimant until the dispute is resolved and Landlord is presented with satisfactory evidence of the same and the prevailing Mortgagee's right to enter such new lease. During the period of any such dispute, any leasehold Mortgagee who desires to avail itself of the rights provided to Mortgagees under this Lease (including the right to enter new leases following default and foreclosure of Tenant's interests in the Demised Premises) shall continue to pay the rent and perform all other obligations of Tenant under this Lease, provided that any time periods in this Lease applicable to the rights of leasehold Mortgagees shall be tolled until the dispute is resolved, so long as rent is paid and other obligations of Tenant under the Lease are performed.

(9) The leasehold Mortgagee pays all costs and expenses of Landlord, including, without limitation, reasonable attorneys' fees, real property transfer taxes and any escrow fees and recording charges, incurred in connection with the preparation and execution of such new lease and any conveyances related thereto.

g. No Obligation to Cure. Nothing herein contained which entitles Mortgagees or their nominees to certain benefits upon agreeing to cure defaults of Tenant arising under Section 32 shall be construed to require such Mortgagee(s) or its nominee(s) to cure any such default of Tenant when such benefits are not desired by such Mortgagee(s) or its nominee(s).

h. Modifications. Landlord agrees promptly after submission to execute, acknowledge, and deliver any agreements modifying this Lease requested by any leasehold Mortgagee(s) for the purposes of implementing the

Mortgagee-protection provisions contained in this Section 29 and in other provisions of this Lease (whether or not specifically identified as such), provided that such modification does not decrease Tenant's obligations, decrease Landlord's rights pursuant to this Lease, or have a material adverse effect on Landlord's rights under this Lease.

i. Proceeds of Insurance and Condemnation. The proceeds from any insurance policies or arising from a condemnation are to be held by any leasehold Mortgagee(s) and distributed pursuant to the provisions of this Lease, but the leasehold Mortgagee(s) may reserve its rights to apply to the mortgage debt all, or any part, of Tenant's share of such proceeds only if pursuant to such Mortgage(s).

j. Notice of Arbitration. The leasehold Mortgagee(s) shall be given notice of any arbitration proceedings by the parties hereto, and shall have the right to intervene therein and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention. In the event that the leasehold Mortgagee(s) shall not elect to intervene or become a party to such proceedings, the leasehold Mortgagee(s) shall receive notice of, and a copy of any award or decision made in said arbitration proceedings.

k. Agreements. Landlord shall, upon request, execute, acknowledge, and deliver to each leasehold Mortgagee(s), an agreement prepared at the sole cost and expense of Tenant, in form satisfactory to such leasehold Mortgagee(s), between Landlord, Tenant and leasehold Mortgagee(s), agreeing to all of the provisions of this Section 29. The term "Mortgage", whenever used herein, shall include all security instruments used in the State of California such as, without limitation, deeds of trust, financing statements, security agreements, and other documentation required pursuant to the Uniform Commercial Code. The term "Mortgage," whenever used herein, shall also include any instruments required in connection with a sale-leaseback transaction.

l. Requests for Notice. Contemporaneously with Tenant's entering into any Mortgage, Tenant shall notify Landlord of such Mortgage so that Landlord may prepare and record a request for a copy of any notice of default under such Mortgage in accordance with Civil Code Section 2924b.

m. Cure of Tenant's Defaults. Tenant will use its best efforts to procure an agreement from each Mortgagee for the benefit of Landlord that Landlord shall be given notice of each default or event of default by Tenant under such Mortgagee's Mortgage at the same time as Tenant is provided with such notice and a reasonable time in addition to the time available to Tenant to cure such default or event of default.

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n. Unsubordinated Fee. Landlord's fee interest in the land underlying the Demised Premises shall not be subordinated to or otherwise encumbered by or subject to any leasehold Mortgage. Notwithstanding the foregoing, Landlord's fee interest shall be and is hereby made subject to this Lease and all provisions hereof.

30. Performance by Sublessees. Any act required to be performed by Tenant pursuant to the terms of this Lease may be performed by any sublessee of Tenant occupying all of any part of the Demised Premises and the performance of such act shall be deemed to be performance by Tenant and shall be acceptable as Tenant's act by Landlord. Without limiting the generality of the foregoing, Tenant shall have the right to delegate and pass through to any sublessee Tenant's obligations under Sections 10, 11, 14, 15, 16, 17, 18, 19.c., 23, and 26 of this Lease. Notwithstanding the foregoing, subject to the provisions of Sections 13 and 34 of this Lease, Tenant shall remain jointly and severally liable with any sublessee to whom Tenant delegates and passes through any of Tenant's obligations under this Lease.

31. Quiet Enjoyment. Tenant, upon paying the rent and additional rent and all other sums and charges to be paid by it as herein provided, and observing and keeping all covenants, warranties, agreements, and conditions of this Lease on its part to be kept, shall quietly have and enjoy the Demised Premises during the term of this Lease, without hindrance or molestation by anyone.

32. Defaults.

a. Enumeration of Tenant's Defaults. In the event any one or more of the following events shall have occurred and shall not have been remedied as hereinafter provided: (i) Tenant's failure to pay any installment of minimum annual rent or Percentage Rental when the same shall be due and payable and the continuance of such failure for a period of twenty (20) days after receipt by Tenant of notice in writing from Landlord specifying the nature of such failure; or (ii) Tenant's failure to perform any of the other covenants, conditions, and agreements herein contained on Tenant's part to be kept or performed and the continuance of such failure without the curing of same for a period of thirty-five (35) days after receipt by Tenant of notice in writing from Landlord specifying in detail the nature of such failure, and provided Tenant shall not cure said failure as provided in Section 32.b. below, or (iii) the abandonment or vacation by Tenant of the Demised Premises, or any substantial portion thereof, for a period of thirty-five (35) days after written notice from Landlord calling attention to such abandonment or vacation, except for

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abandonment or vacation occasioned by a temporary taking as provided in Section 26, or by an act or event of "force majeure" set forth in Section 35, and provided Tenant shall not cure said failure as provided in Section 32.b. below, then, Landlord may, at its option, give to Tenant a notice of election to end the term of this Lease upon a date specified in such notice, which date shall be no less than ten (10) business days (Saturdays, Sundays, and legal holidays excluded) after the date of receipt by Tenant of such notice from Landlord, and upon the date specified in said notice, the term and estate hereby vested in Tenant shall cease and any and all other right, title, and interest of Tenant hereunder shall likewise cease without further notice or lapse of time, as fully and with like effect as if the entire term of this Lease had elapsed, but Tenant shall continue to be liable to Landlord as hereinafter provided. Simultaneously with the sending of the notice to Tenant hereinabove provided for, Landlord shall send a copy of such notice to any sublessee(s) of the Demised Premises or portions thereof that Tenant may select in writing, from time to time, and any additional persons or parties having an interest in the Demised Premises that Tenant may select, in writing from time to time. The curing of any default(s) within the above time limits by any of the aforesaid parties or combination thereof, shall constitute a curing of any default(s) hereunder with like effect as if Tenant had cured same hereunder.

b. Cure of Defaults. In the event that Landlord gives notice of a default under Section 32.a.(ii) or (iii) above of such a nature that it cannot be cured within such thirty-five (35) day period, such default shall not be deemed to continue so long as Tenant, after receiving such notice, proceeds to cure the default as soon as reasonably possible and continues to take all steps necessary to complete the same within a period of time which under all prevailing circumstances, shall be reasonable. No default shall be deemed to continue if and so long as Tenant shall be so proceeding to cure the same in good faith or be delayed in or prevented from curing the same by any event specified in Section 35 hereof. In addition, no act or failure to act shall be deemed to be a default under this Lease if the cure thereof is impossible to effect.

c. Effect of Cure. Notwithstanding anything to the contrary contained in this Section 32, in the event that any default(s) of Tenant shall be cured in any manner hereinabove provided, such default(s) shall be deemed never to have occurred and Tenant's rights hereunder shall continue unaffected by such default(s).

d. Remedies Upon Default. Upon any default not timely cured, Landlord may, in addition to and without prejudice to any other rights and remedies Landlord shall have at law or

in equity, but subject to the rights of leasehold Mortgagees under Section 29 and the provisions of Sections 27 and 30 exercise any one or more of the following remedies:

(i) Landlord may terminate this Lease, in which event Tenant shall promptly surrender possession of the Demised Premises and the improvements thereon to Landlord. If Tenant does not so promptly surrender the Demised Premises and the improvements thereon, Landlord shall have the immediate right to re-enter the Demised Premises and take possession thereof and dispossess all persons therefrom, and Tenant shall have no further claim thereon or thereunder;

(ii) Landlord may, without terminating this Lease, (A) enter the Demised Premises and the improvements thereon and re-let the whole or any part thereof for and on account of Tenant and to collect rent payable under this Lease, and (B) refuse (notwithstanding any other term or provision of this Lease) to permit, and, to deny the right of Tenant to remove any or all of Tenant's movable furniture, trade fixtures, equipment, or personal property located in, on or upon the Demised Premises and the improvements thereon, and use and take exclusive possession of same without payment to Tenant or cost to Landlord for so long as Landlord occupies the Demised Premises and the improvements thereon or until this Lease is terminated pursuant to subsection (iii) below; and

(iii) Landlord may, even though it may have re-entered and re-let the Demised Premises and the improvements thereon pursuant to subsection (ii) above, thereafter elect to terminate this Lease in accordance with Section 32.d.(i) above.

e. Right Upon Re-entry.

(i) In the event Landlord re-enters the Demised Premises and the improvements thereon pursuant to the provisions of subsection 32.d.(ii) above, Landlord shall not be deemed to have terminated this Lease, and the liability of Tenant thereafter to pay rent and all other sums payable hereunder shall continue until the earlier of either the expiration of the Term or the date specified in a written notice by Landlord to Tenant that Landlord has elected to terminate this Lease pursuant to subsection 32.d.(iii), above. Notwithstanding the foregoing, under no circumstances shall Tenant's obligations be terminated until Tenant surrenders possession and control of the Demised Premises and the improvements thereon to Landlord. Tenant further acknowledges and agrees that the commencement by Landlord of unlawful detainer proceedings shall not be deemed an election to terminate this Lease. Tenant hereby waives all claims for damages that may be caused by Landlord's re-entering and taking possession of the Demised Premises and the improvements thereon

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or removing and storing furniture and personal property as hereinafter provided and will compensate Landlord for costs, losses and damages occasioned thereby, provided that the foregoing waiver and obligation to compensate shall not extend to damages caused by Landlord's or Landlord's officers', agents', or employees' actively negligent or intentionally wrongful acts or omissions. No re-entry permitted by this Lease shall be deemed a forcible entry as defined under applicable California law.

(ii) In the event Landlord re-enters the Demised Premises, Landlord may re-let the Demised Premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms which may, at Landlord's option, be less than or exceed the period which would otherwise have constituted the balance of the Term and under terms and conditions as Landlord may determine, and Landlord may grant reasonable concessions.

(iii) Tenant shall be liable to Landlord for any deficiency between the rentals so procured by Landlord for the period of said letting or re-letting (not to exceed, however, the balance of the term hereof), after deducting therefrom the cost of such letting or re-letting (including the cost of any alterations or other changes as described in subsection 32.e.(iv) below), and the rental herein reserved for a period or periods identical with the term of said letting, or re-letting, and Landlord may institute action for the whole of such deficiency immediately upon effecting any letting or re-letting and shall not thereafter be precluded from further like action in the event such letting or re-letting shall not embrace the whole unexpired portion of the term hereof, or Landlord may monthly, or at such greater intervals as it may see fit, demand payment of said deficiency then existing, and Tenant agrees to pay said deficiency then existing to Landlord from time to time when called upon by Landlord so to do.

(iv) Landlord, at Landlord's option, may make such alterations, repairs, replacements, and/or decorations in the Demised Premises as Landlord, in Landlord's sole judgment, considers advisable and necessary for the purpose of re-letting the Demised Premises; and the making of such alterations, repairs, replacements, and/or decorations shall not operate or be construed to release Tenant from liability hereunder as aforesaid. Landlord agrees to use its best efforts to mitigate all damages and to re-let the Demised Premises in the event of any defaults specified herein.

f. Calculation of Damages. Should Landlord elect to terminate this Lease pursuant to the provisions of this Section 32, Landlord may recover from Tenant, as damages:

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(i) The worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

(ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves could have been reasonably avoided; plus

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(iv) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

As used in subsections 32.f.(i) and f.(ii) above, the term "worth at the time of award" is computed by allowing interest from the date such amount becomes due and payable at one percent (1%) per annum above the rate which the Bank of America announces publicly at its San Francisco or Los Angeles executive offices as its "prime rate" for unsecured commercial loans.

As used in subsection 32.f.(iii), above, the term "worth at the time of award" is computed by discounting the amount determined pursuant to subsection 32.f.(iii) at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

g. Personal Property. Consistent with Section 51 of this Lease, if there occurs a default which is not timely cured and Landlord re-enters the Demised Premises and improvements thereon pursuant to subsection 32.d.(ii), above, all Personal Property shall remain on the Demised Premises, and in that event and continuing during the length of said default, Landlord shall have the right to take the exclusive possession of same without payment to Tenant or any other party. Landlord shall also have the right to remove any and all Personal Property whatsoever situated upon the Demised Premises and the improvements thereon, and to place such Personal Property in storage for the account of and at the expense of Tenant. Tenant shall be obligated to pay the costs of such storage. In the event that the cost of such storage shall not have been paid by or on behalf of Tenant on or before ninety (90) days after storage commenced, Landlord may, at its discretion, sell any or all of such Personal Property at public or private sale in such

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manner and at such times and places as Landlord in its sole discretion may deem proper, without notice to Tenant or any demand upon Tenant. If Landlord so elects to sell such Personal Property, Landlord shall apply the proceeds of such sale: first, to the cost and expenses of such sale, including reasonable attorneys' fees actually incurred; second, to the payment of the costs of or charge for removing and storing any Personal Property; third, to the payment of any other sums of money which may then or thereafter be due to Landlord from Tenant under any of the terms of this Lease; and fourth, the balance, if any, to Tenant. Landlord's rights under this Section 32.g. shall in all cases be subject to the Phase II Option to Purchase, the Phase II CC&R's, the rights of owners of units in the Phase II Condominium Project and their lenders, and the rights of Mortgagees.

h. Remedies Not Exclusive; Limitation. No right or remedy herein conferred upon or reserved to Landlord or Tenant is intended to be exclusive of any other right or remedy, by law, in equity, or by this Lease, conferred upon or reserved to Landlord or Tenant. In particular, all rights and remedies of Landlord under this Section 32 shall be subject in all cases to the provisions of Section 34 hereof.

i. No Waiver. No delay, failure or omission of Landlord to re-enter the Demised Premises or 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 such right; provided, that nothing in this Section 32.i. shall restrain or limit Tenant's or any Mortgagee's rights elsewhere set forth in this Lease to cure defaults by Tenant under this Lease.

33. Waivers. Failure of Landlord or Tenant to complain of any act or omission on the part of the other party no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by Landlord or Tenant at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. No acceptance by Landlord of any partial payment shall constitute an accord or satisfaction but shall only be deemed a part payment on account.

34. Limited Recourse.

a. Prior to Completion of Construction. Prior to "completion of construction" (as defined in Section 13.c hereof) of the Phase II Condominium Project and the Associated

Improvements and subject to Section 13.d hereof, this Lease shall be fully recourse to Tenant and Tenant's successors in interest, such that Landlord may look to all of the assets of Tenant and such successors in interest for the satisfaction of each and every remedy of Landlord in the event of any breach by Tenant or by such successor in interest of any of the terms, covenants, and conditions of this Lease to be performed by Tenant.

b. After Completion of Construction. Upon and after "completion of construction" (as defined in Section 13.c hereof) of the Phase II Condominium Project and the Associated Improvements, and subject to Section 13.d hereof, and notwithstanding anything to the contrary provided in Section 32 hereof, this Lease shall be non-recourse to Tenant or any successor in interest of Tenant, such that there shall be absolutely no personal liability on the part of Tenant, such successor in interest, or any individual, or the members, officers or directors of any firm, partnership or joint venture with respect to any of the terms, covenants and conditions of this Lease, and Landlord shall look solely to the equity of Tenant or such successor in interest in the leasehold estate of Tenant in the Demised Premises for the satisfaction of each and every remedy of Landlord in the event of any breach by Tenant or by such successor in interest of any of the terms, covenants and conditions of this Lease to be performed by Tenant, such exculpation of personal liability to be absolute and without any exception whatsoever.

c. No Recourse to Mortgagees. Notwithstanding anything to the contrary provided elsewhere in this Lease (each and every term, covenant, condition, and provision of this Lease being hereby made specifically subject to the provisions of this Section 34.c), if Tenant or any successor in interest of Tenant shall be a Mortgagee, it is specifically understood and agreed that there shall be absolutely no personal liability on the part of such Mortgagee with respect or any of the terms, covenants, and conditions of this Lease, whether before or after "completion of construction" and Landlord shall look solely to the equity of Tenant or such successor in interest in the leasehold estate of Tenant in the Demised Premises for the satisfaction of each and every remedy of Landlord in the event of any breach by Tenant or by such successor in interest of any of the terms, covenants, and conditions of this Lease to be performed by Tenant, such exculpation of personal liability to be absolute and without any exception whatsoever.

35. Force Majeure. In the event that Landlord or Tenant shall be delayed, hindered in, or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations,



riots, insurrection, war, soils conditions, or the act, failure to act, or default of the other party, or other reason beyond their control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, if the delay, hindrance or prevention is caused by soils conditions, then the period of excused delay shall be limited to twenty-four (24) months after Tenant learns of the event of soils conditions. For purposes of this Section 35, the phrase "soils conditions" shall mean substantial subsidence of the soils in the Demised Premises which prevents Tenant's performance of acts under this Lease which are deemed excused by the force and effect of this Section 35. The acts of "force majeure" described in this Section 35 shall not serve to excuse lack of timely performance of any covenant or obligation of Landlord or Tenant set forth in Sections 3, 5, 6, 7, 8, 9 or 19 of this Lease.

36. Nondiscrimination. Tenant and Tenant's employees shall not discriminate because of race, religion, color or national origin against any person by refusing to furnish such person any facility, service or privilege offered to or enjoyed by the general public, nor shall Tenant or Tenant's employees publicize the facilities, services or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any person because of race, religion, color or national origin.

In the performance of this Lease, Tenant will not discriminate against any employee or applicant for employment because of race, sex, color, religion, ancestry or national origin. Tenant will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

Tenant will permit access to Tenant's records of employment relating to the Demised Premises, employment advertisements, application forms and other pertinent data and records by the State of California Fair Employment Practices Commission, or any other agency of the State of California designated by Landlord for the purpose of investigations to ascertain compliance with this Section 36.

37. Notices.

a. Definition of Notice; Application of Provision. As used in this Lease, notice includes, but is not

limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver and appointment. No notice of election is required unless the provision giving the election expressly requires notice.

b. Writing. All notices must be in writing.

c. Delivery. Notice is considered given either (a) when delivered in person to the recipient named as below or (b) on the date shown on the return receipt after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage and postal charges prepaid, addressed by name and address to the party or person intended as follows:

Notice to Landlord: City of Benicia
 City Hall
 250 East L Street
 Benicia, California 94510
 Attention: City Council
 City Attorney
 City Manager
 Planning Director

Notice to Tenant: Southern California Federal
 Savings and Loan Association
 9100 Wilshire Boulevard
 Beverly Hills, California 90212
 Attention: Mr. John M. Yunker
 President
 Ms. Doreen Blauschild
 Counsel

 Worthington Advisory Group
 201 California Street
 San Francisco, California 94111
 Attention: Mr. William A. Worthington
 President
 Mr. George B. Brewster
 Principal

d. Change of Recipient or Address. Either party may, by notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

e. Recipient Named. Each recipient named must be an individual person. If more than one recipient is named, delivery of notice to any one such recipient is sufficient. If none of the recipients named in the latest designation of

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recipient is available for delivery in person, and if the notice addressed by mail to each recipient named in the latest designation of recipient is returned to the sender undelivered, notice shall be sufficient if sent by mail as above to the party as named in this Lease, unless the name or identity of the party has changed as permitted in this Lease and proper notice of the change has been given, in which event the notice shall be sufficient if sent by mail as above to the party named in the latest notice designating the party, and the notice shall be considered correct when the first attempt to give notice was properly made. The provisions of this Section 37 shall apply to all notices required to be given to any leasehold Mortgagee in this Lease.

38. Entire Lease. This Lease contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Lease has been or is relied on by either party. Each party has relied on his own examination of this Lease, the counsel of his own advisors, and the warranties, representations and covenants in the Lease itself. The failure or refusal of either party to inspect the Demised Premises, or improvements, to read the Lease, or other documents, or to obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention or claim that might have been based on such reading, inspection or advice.

39. Severability. The invalidity or illegality of any provision of this Lease shall not affect the remainder of this Lease.

40. Successors. Subject to the other provisions of this Lease, each and all of the covenants and conditions of this Lease shall be binding on and shall inure to the benefit of the heirs, successors, executors, administrators, assigns and personal representatives of the respective parties.

41. Recordation of Memorandum Only. This Lease shall not be recorded; only a memorandum of this Lease shall be recorded. The parties shall execute the memorandum in form and substance as required by a title insurance company insuring Tenant's leasehold estate or the interest of any leasehold Mortgagee(s), and sufficient to give constructive notice of this Lease to subsequent purchasers and Mortgagees.

42. Attorneys' Fees. If either party brings any action or proceeding to enforce, protect or establish any right or remedy, the prevailing party shall be entitled to recover reasonable attorney's fees. Arbitration is not an action or proceeding for the purpose of this provision.

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43. Time of Essence. Time is of the essence of each and every provision of this Lease.

44. Certificates. Either party shall, without charge, at any time and from time to time hereafter, within ten (10) days after written request of the other, certify by written instrument duly executed and acknowledged to any Mortgagee or purchaser, or proposed mortgagee or proposed purchaser, or any other person firm or corporation specified in such request: (a) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (b) as to the validity and force and effect of this Lease, in accordance with its tenor as then constituted; (c) as to the existence of any default thereunder; (d) as to the existence of any offsets, counterclaims or defenses thereto on the part of such other party; (e) as to the commencement and expiration dates of the term of this Lease; and (f) as to any other matters as may reasonably be so requested. Any such certificate may be relied upon by the party requesting it and any other person, firm, or corporation to whom the same may be exhibited or delivered, and the contents of such certificate shall be binding on the party executing same.

45. Governing Law. This Lease and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of California.

46. Interpretation. Wherever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. The section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof. This Lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. The terms "Landlord" and "Tenant" whenever used herein shall mean only the owner at the time of Landlord's or Tenant's interest herein, and upon any sale or assignment of the interest of either Landlord or Tenant herein, their respective successors in interest and/or assigns shall, during the term of their ownership of their respective estates herein, be deemed to be Landlord or Tenant, as the case may be.

47. No Third Parties Benefited. This Lease is made and entered into for the protection and benefit of the parties hereto and their successors and assigns, and no other person or entity not specifically mentioned herein as a beneficiary shall be a direct or indirect beneficiary of or have any direct or indirect cause of action or claim in connection with this Lease or any of the other documents required under this Lease.

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48. Arbitration of Disputes.

a. Location. Any dispute between the parties arising under or relating to this Lease shall be settled by arbitration in San Francisco, California, or such other place as the arbitrators agree upon, in accordance with the procedures set forth below and the rules of the American Arbitration Association, to the extent not inconsistent with such procedures; provided, however, with respect to any dispute arising from events which, in either party's reasonable judgment, create an emergency condition requiring immediate and decisive action by one or both of the parties for its resolution, then either Landlord or Tenant may take such action, including filing court actions, as either of them deems reasonably necessary to preserve such party's rights in the Demised Premises and under this Lease, without first subjecting such dispute to arbitration under this Section 48, so long as, in the case of Landlord, Landlord's actions in response to such emergency condition do not have as their purpose Landlord's taking permanent possession of the Demised Premises or terminating this Lease. During the pendency of any arbitration proceeding, the time for (i) performance of any obligation, (ii) exercise of any right and (iii) cure of any default, arising under or by virtue of this Lease, which is the subject of or directly relates to the matter being arbitrated in such proceeding, shall be tolled, and extended for a period equal to the amount of time consumed by the arbitration process, and ending ten (10) business days after rendering of the written final decision in the arbitration proceeding as to such matter, as described in this Section 48.

b. Triggering of Arbitration Procedure;
Appointment of Arbitrators. With respect to any dispute subject to arbitration under this Section 48, before commencing the arbitration procedure described herein, each party shall be obligated to meet in person with the other party within five (5) days after notice of the dispute from the other party and negotiate in good faith in an effort to resolve such dispute without arbitration. If within the later to occur of (i) five (5) days after such meeting or (ii) ten (10) days after the initial notice of dispute (if the parties have been unwilling or unable to meet in person to discuss the matter), the dispute remains unresolved, either party ("Initiating Party") may give notice of such party's demand for arbitration of such dispute to the other party ("Other Party"), stating in such notice the Initiating Party's appointment of an arbitrator to serve in such arbitration proceeding. The Other Party shall appoint a second arbitrator and notify the Initiating Party of such appointment within fourteen (14) days after receipt of the Initiating Party's notice of demand and appointment. Within ten (10) days after the Initiating Party's receipt of the Other Party's notice of appointment, the two (2) arbitrators so selected shall

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appoint a third arbitrator from a list of persons supplied by the American Arbitration Association.

c. Awards; Time for Decisions. The three (3) arbitrators appointed and selected as described above shall render their decision and make an award as to the matter in dispute within sixty (60) days after the date of selection of the third arbitrator, and any such decision and award shall be made according to the agreement of any two (2) of the three (3) arbitrators.

d. Limited Discovery. In any arbitration proceeding conducted under this Section 48, each party shall have the right to the following limited discovery from any other party to the proceeding: (i) one (1) deposition, (ii) thirty-five (35) interrogatories, whether "specially prepared" or in "official form", as such terms are used in California Code of Civil Procedure ("CCP") Section 2030, and (iii) the right to obtain and review any documents relevant to the subject matter of the arbitration proceeding held by any other party which are not subject to a claim of attorney-client or attorney work-product privilege. The parties' other rights and obligations with respect to the discovery process shall be governed by CCP Sections 2016 to 2036, as from time to time amended, provided, that nothing in such sections shall apply to expand or increase any party's limited rights of discovery as set forth in this Section 48.d.

e. Arbitrators' Powers. The arbitrators appointed and selected pursuant to this Section 48 shall have the rights and powers set forth in CCP Sections 1283.05(b) and (c), and CCP Section 1283.05(d) shall be applicable to any disputes arbitrated pursuant to this Lease.

f. Conclusiveness. Any award shall be a conclusive determination of the matter and shall be binding upon Landlord and Tenant and shall not be contested by either of them. Upon receipt of an award in writing by the arbitrators the losing party shall make payment in the amount, if any, set forth in such award to the prevailing party.

g. Fees and Expenses. Landlord and Tenant each shall bear its own costs (including the fees and expenses of its appointed arbitrator and its respective attorneys) incurred in connection with the resolution of disputes under this Section 48, and each shall each bear one-half (1/2) of the fees and expenses of any third arbitrator.

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

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GIVING UP ANY RIGHTS 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 SUCH 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.

CITY OF BENICIA

SOUTHERN CALIFORNIA FEDERAL SAVINGS
AND LOAN ASSOCIATION

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[Signature]

49. Conflict of Interest. Tenant represents and warrants that to the best of Tenant's knowledge, Tenant has not employed, retained or solicited aid from any official or employee of Landlord in the negotiation of this Lease. Tenant agrees that it will not in the future knowingly employ any officer or employee of Landlord (or any business entity in which any such official or employee is interested) in the performance of this Lease without prompt written notice thereof to Landlord. In the event Landlord determines that such employment of such official, employee or business entity is not compatible with such official's or employee's duties as an official or employee of Landlord, Tenant upon request of Landlord shall terminate such employment immediately.

50. Holding Over. If Tenant shall hold over in the Demised Premises after the expiration of the Term with the consent of Landlord, either express or implied, such holding over shall be construed to be only a tenancy from month-to-month, subject to all covenants, conditions and obligations contained in this Lease. Tenant hereby agrees to pay Landlord as monthly rental one-twelfth (1/12) of all monetary sums denominated as rent hereunder which are the Tenant's obligation to pay under this Lease until, upon thirty (30) days' advance written notice, Landlord, at its sole discretion, adjusts said monthly rental obligation, which obligation Tenant shall honor and fulfill thereafter.

51. Ownership of Improvements and Personal Property. All Improvements and Personal Property constructed, installed and placed on the Demised Premises during the Term shall be and remain the property of Tenant and Tenant's successors and assigns. If for any reason the Phase II Option to Purchase is

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revoked, and if for any reason the successor owners of the Phase II Condominium Project forfeit their interest in the same to Landlord, and if for any reason this Lease terminates upon default by Tenant, and a Mortgagee or its nominee does not enter a new lease with Landlord, or upon any other termination of this Lease (other than by reason of consummation of the Phase II Option to Purchase), then title to the Improvements shall revert to Landlord. As to Personal Property, upon the expiration or sooner termination of the Term, Landlord may, at Landlord's election, require the removal from the Demised Premises, at Tenant's sole cost and expense, of all Personal Property (other than fixtures), or of certain Personal Property (other than fixtures). Any Personal Property not removed within forty-five (45) days following Landlord's request shall be deemed abandoned by Tenant and shall, without compensation to Tenant, then become Landlord's property, free and clear of all claims to or against it by Tenant or any other person. Landlord's rights under this Section 51 shall in all cases be subject to the Phase II Option to Purchase, the Phase II CC&Rs, the rights of owners of units in the Phase II Condominium Project and their lenders, and the rights of Mortgagees.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

"Landlord"

THE CITY OF BENICIA,
a California municipal corporation

By: Marilyn O. Dlouha
Mayor

By: Francis D. Luce
City Clerk

[Handwritten initials]

APPROVED AS TO FORM:

Jeffrey [Signature]
City Attorney

"Tenant"

SOUTHERN CALIFORNIA FEDERAL
SAVINGS AND LOAN ASSOCIATION,
a federally chartered savings
and loan association

By: [Signature]
Name: JOHN M. GUNKER, JR.
Title: Pres.

By: [Signature]
Name: Doreen J. Brunschild
Title: Vice President

APPROVED AS TO FORM:

Robert A. Crooks
Name: Robert A. Crooks
Counsel to Tenant
Spears, Lubenky, Bledsoe,
Anderson, Young & Hilliard

[Handwritten initials]

CONFIRMATION BY CDC

The undersigned Continental Development of California, Inc., a California corporation, executes this Lease solely for purposes of confirming to Landlord and Tenant that the undersigned has assigned and relinquished to Tenant all of the undersigned's, right, title and interest in and to the Original Master Lease, the Original Master Sublease and the Project Master Area.

CONTINENTAL DEVELOPMENT OF CALIFORNIA, INC., a California corporation

By: 
Name: JOHN M. YUNKER, JR.
Title: President

By: 
Name: Dennis T. Blaschke
Title: Vice President



EXHIBIT A

Legal Description and Site Map

[To be Attached]

Handwritten initials/signature

PARCEL R2

BEING ALL OF LOTS 6, 7, 9 AS SHOWN ON "PARCEL MAP-MARINA BASIN SUBLEASING" (27 PM 64), LOCATED IN THE CITY OF BENICIA, SOLANO COUNTY, CALIFORNIA.

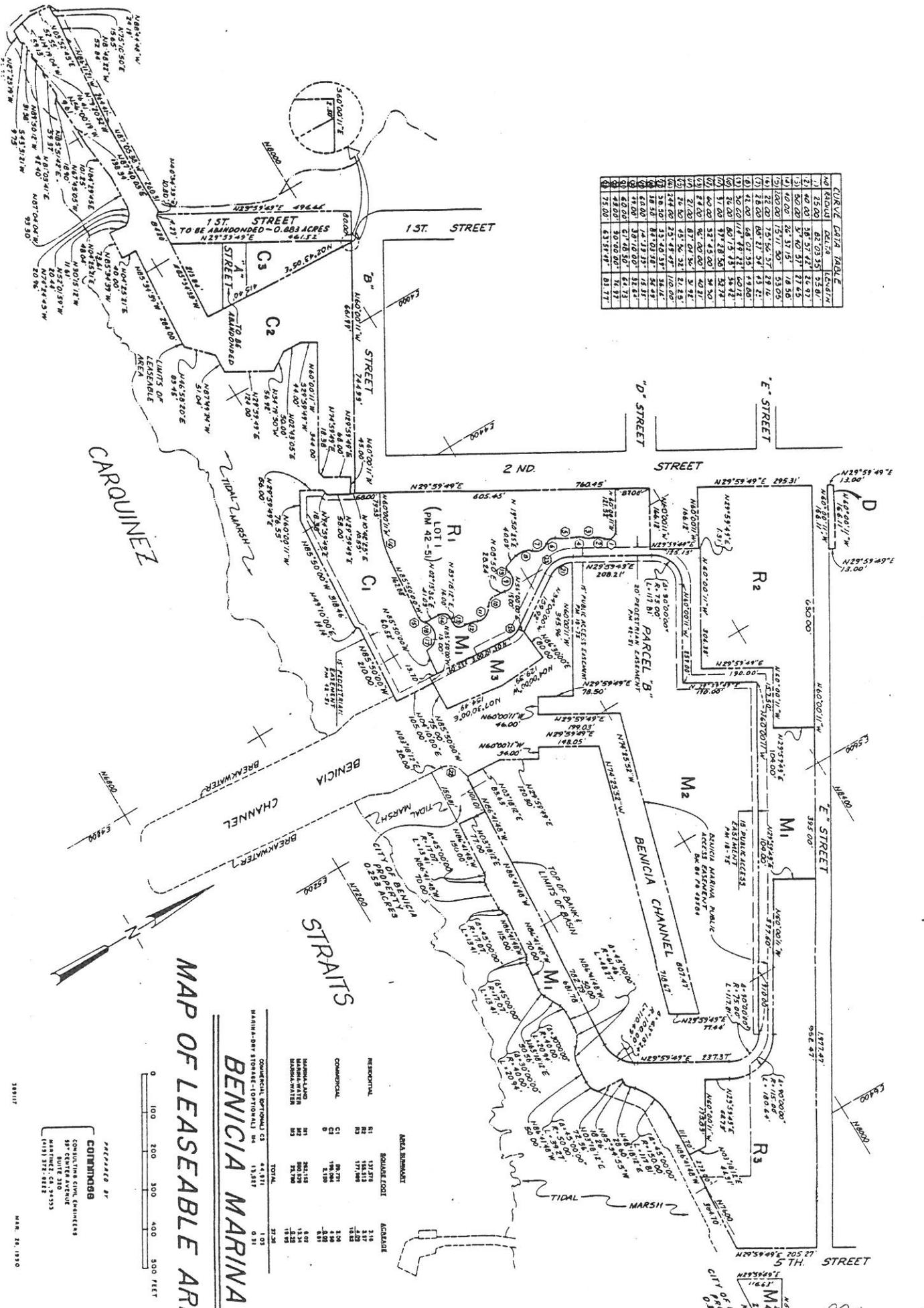
COMMENCING AT A POINT THAT IS THE MOST NORTHWESTERLY CORNER OF LOT 7 ON MAP DESIGNATED AS "PARCEL MAP-MARINA BASIN SUBLEASING" (27 PM 64), ALSO THE MOST NORTHERLY CORNER OF THE BENICIA YACHT CLUB; THENCE NORTH 29°59'49" EAST, 295.31 FEET; THENCE SOUTH 60°00'11" EAST, 630.00 FEET; THENCE SOUTH 29°59'49" WEST, 104.00 FEET; THENCE NORTH 60°00'11" WEST, 157.50 FEET; THENCE SOUTH 29°59'49" WEST, 190.00 FEET; THENCE NORTH 60°00'11" WEST, 306.38 FEET; THENCE SOUTH 29°59'49" WEST, 1.31 FEET; THENCE NORTH 60°00'11" WEST, 116.21 FEET TO THE POINT OF BEGINNING.

PARCEL R3

BEING ALL OF LOTS 10, 11, 12, 13, 14 AS SHOWN ON "PARCEL MAP-MARINA BASIN SUBLEASING" (27 PM 64), LOCATED IN THE CITY OF BENICIA, SOLANO COUNTY, CALIFORNIA.

COMMENCING AT A POINT THAT IS THE MOST NORTHWESTERLY CORNER OF LOT 7 ON MAP DESIGNATED AS "PARCEL MAP-MARINA BASIN SUBLEASING" (27 PM 64), ALSO THE MOST NORTHERLY CORNER OF THE BENICIA YACHT CLUB; THENCE NORTH 29°59'49" EAST, 295.31 FEET; THENCE SOUTH 60°00'11" EAST, 1025.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 60°00'11" EAST, 952.47 FEET; THENCE SOUTH 29°59'49" WEST, 205.27 FEET; THENCE NORTH 86°41'48" WEST, 273.00 FEET; THENCE NORTH 03°18'12" EAST, 44.91 FEET; THENCE NORTH 60°00'11" WEST, 175.89 FEET; THENCE NORTH 29°59'04" EAST, 68.79 FEET; THENCE THROUGH A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 115.00 FEET, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC LENGTH OF 180.64 FEET; THENCE NORTH 60°00'11" WEST, 397.50 FEET; THENCE NORTH 29°59'49" EAST, 104.00 FEET; TO THE TRUE POINT OF BEGINNING.

CURVE DATA TABLE	DELTA	CHORD	TANGENT	AREA
1	23.00	84.0351	35.87	15.94
2	40.00	98.51	37.47	21.46
3	50.00	107.67	38.56	25.96
4	60.00	115.71	39.24	29.52
5	70.00	122.83	39.62	32.25
6	80.00	129.14	39.74	34.21
7	90.00	134.74	39.71	35.46
8	100.00	139.71	39.54	36.03
9	110.00	144.14	39.24	35.94
10	120.00	148.11	38.72	35.14
11	130.00	151.71	37.99	33.56
12	140.00	155.01	37.06	31.23
13	150.00	158.01	35.94	28.18
14	160.00	160.71	34.64	24.45
15	170.00	163.11	33.17	20.08
16	180.00	165.21	31.54	15.11
17	190.00	167.01	29.76	9.68
18	200.00	168.51	27.84	3.83
19	210.00	169.71	25.78	-1.31
20	220.00	170.61	23.59	-6.46
21	230.00	171.21	21.27	-11.61
22	240.00	171.51	18.83	-16.76
23	250.00	171.51	16.27	-21.91
24	260.00	171.21	13.60	-27.06
25	270.00	170.61	10.83	-32.21
26	280.00	169.71	8.06	-37.36
27	290.00	168.51	5.29	-42.51
28	300.00	167.01	2.52	-47.66
29	310.00	165.21	-0.25	-52.81
30	320.00	163.11	-3.02	-57.96
31	330.00	160.71	-5.79	-63.11
32	340.00	158.01	-8.56	-68.26
33	350.00	155.01	-11.33	-73.41
34	360.00	151.71	-14.10	-78.56
35	370.00	148.11	-16.87	-83.71
36	380.00	144.14	-19.64	-88.86
37	390.00	139.71	-22.41	-94.01
38	400.00	134.74	-25.18	-99.16
39	410.00	129.14	-27.95	-104.31
40	420.00	122.83	-30.72	-109.46
41	430.00	115.71	-33.49	-114.61
42	440.00	107.67	-36.26	-119.76
43	450.00	98.51	-39.03	-124.91
44	460.00	84.0351	-41.80	-130.06
45	470.00	64.0702	-44.57	-135.21
46	480.00	39.6144	-47.34	-140.36
47	490.00	10.1586	-50.11	-145.51
48	500.00	-14.3072	-52.88	-150.66
49	510.00	-34.3618	-55.65	-155.81
50	520.00	-50.3254	-58.42	-160.96
51	530.00	-62.3000	-61.19	-166.11
52	540.00	-70.2776	-63.96	-171.26
53	550.00	-74.2592	-66.73	-176.41
54	560.00	-74.2592	-69.50	-181.56
55	570.00	-70.2776	-72.27	-186.71
56	580.00	-62.3000	-75.04	-191.86
57	590.00	-50.3254	-77.81	-197.01
58	600.00	-34.3618	-80.58	-202.16
59	610.00	-14.3072	-83.35	-207.31
60	620.00	10.1586	-86.12	-212.46
61	630.00	39.6144	-88.89	-217.61
62	640.00	84.0351	-91.66	-222.76
63	650.00	129.14	-94.43	-227.91
64	660.00	174.25	-97.20	-233.06
65	670.00	219.36	-100.00	-238.21
66	680.00	264.47	-102.80	-243.36
67	690.00	309.58	-105.60	-248.51
68	700.00	354.69	-108.40	-253.66
69	710.00	399.80	-111.20	-258.81
70	720.00	444.91	-114.00	-263.96
71	730.00	490.02	-116.80	-269.11
72	740.00	535.13	-119.60	-274.26
73	750.00	580.24	-122.40	-279.41
74	760.00	625.35	-125.20	-284.56
75	770.00	670.46	-128.00	-289.71
76	780.00	715.57	-130.80	-294.86
77	790.00	760.68	-133.60	-300.01
78	800.00	805.79	-136.40	-305.16
79	810.00	850.90	-139.20	-310.31
80	820.00	896.01	-142.00	-315.46
81	830.00	941.12	-144.80	-320.61
82	840.00	986.23	-147.60	-325.76
83	850.00	1031.34	-150.40	-330.91
84	860.00	1076.45	-153.20	-336.06
85	870.00	1121.56	-156.00	-341.21
86	880.00	1166.67	-158.80	-346.36
87	890.00	1211.78	-161.60	-351.51
88	900.00	1256.89	-164.40	-356.66
89	910.00	1302.00	-167.20	-361.81
90	920.00	1347.11	-170.00	-366.96
91	930.00	1392.22	-172.80	-372.11
92	940.00	1437.33	-175.60	-377.26
93	950.00	1482.44	-178.40	-382.41
94	960.00	1527.55	-181.20	-387.56
95	970.00	1572.66	-184.00	-392.71
96	980.00	1617.77	-186.80	-397.86
97	990.00	1662.88	-189.60	-403.01
98	1000.00	1707.99	-192.40	-408.16
99	1010.00	1753.10	-195.20	-413.31
100	1020.00	1798.21	-198.00	-418.46



MAP OF LEASEABLE AREAS BENICIA MARINA

AREA DESIGNATION	SQUARE FEET	ACRES
RESIDENTIAL	117,781	2.68
COMMERCIAL	177,944	4.04
TOTAL	295,725	6.72

AREA DESIGNATION	SQUARE FEET	ACRES
RESIDENTIAL	117,781	2.68
COMMERCIAL	177,944	4.04
TOTAL	295,725	6.72

PREPARED BY
COMINGS
CONSULTING CIVIL ENGINEERS
597 CENTER AVENUE
MARINE CITY, CALIF. 94963
(415) 372-8822

MAR. 26, 1970



RECORDING REQUESTED BY AND:
WHEN RECORDED MAIL TO:

FOR RECORDER'S USE ONLY:

Southern California Federal
Savings and Loan Association
9100 Wilshire Boulevard
Beverly Hills, California 90212
Attention: Ms. Doreen J. Blauschild

^{and Al Recor.}
FIRST AMERICAN TITLE GUAR.

8:30 A.M.

1991

OFFICIAL RECORDS
SOLANO COUNTY CALIF.

Paul J. Aguirre

602087

OPTION TO PURCHASE FEE TITLE TO REAL
PROPERTY AND EXERCISE OF OPTION

THIS OPTION TO PURCHASE FEE TITLE TO REAL PROPERTY AND EXERCISE OF OPTION ("Agreement") is made and entered as of the 12th day of December, 1990, by and between THE CITY OF BENICIA ("City"), a California municipal corporation, and SOUTHERN CALIFORNIA FEDERAL SAVINGS AND LOAN ASSOCIATION, a federally-chartered savings and loan association, (herein, together with its successors and assigns, called "Developer") and is made with reference to the following recitals of fact:

R E C I T A L S

A. Pursuant to that certain Restated and Amended Benicia Marina Lease Agreement (Phase II Condominiums Parcel) dated as of April 22, 1990, as amended by that First Amendment to Restated and Amended Benicia Marina Lease Agreement (Phase II Condominiums Parcel) dated as of December 12, 1990 (as amended, the "Lease"), City has leased to Developer those certain parcels of land located in the City of Benicia, County of Solano, State of California, as more particularly described in Exhibit A attached hereto and hereinafter referred to as the "Phase II Condominium Property."

B. Pursuant to the Lease and certain other agreements between City and Developer, Developer proposes to develop and construct on the Phase II Condominium Property a residential condominium project containing one hundred sixteen (116) units. At some time during the development and construction process, Developer intends to prepare, have approved by the City, and record in Solano County Official Records, a Declaration of Covenants, Conditions and Restrictions ("Phase II CC&Rs") whereby there shall be created a residential condominium regime governing the use and ownership of the Phase II Condominium Property, meeting the requirements of the Davis-Stirling Common Interest Development Act (Cal. Civ. Code

§ 1350 et seq.), as amended from time to time or replaced by successor legislation. It is expected that a condominium plan implementing the Phase II CC&Rs will be attached to and incorporated into the Phase II CC&Rs. Upon completion of construction, Developer intends to obtain approval from the California Department of Real Estate ("DRE") and other public authorities having jurisdiction, to offer for sale individual condominium units to the general public. As part of the initial sale of each unit, Developer intends to sublease to each purchaser an undivided interest in the common area created by the condominium plan for a term effectively coterminous with the term of the Lease, pursuant to a form of condominium sublease ("Phase II Condominium Sublease").

C. City and Developer acknowledge that it may be in the best interests of the City and Developer and the purchasers of the condominium units ("Purchasers") that at some time in the future, Developer be able to convey to Purchasers or their respective successors and assigns, a fee interest in and to the property covered by the respective Phase II Condominium Subleases.

D. In order to assist in the financing of the development of the Benicia Marina, which is adjacent to the Phase II Condominium Property, City has borrowed certain funds from the California Department of Boating and Waterways ("Cal Boating") all as more particularly described in that certain Loan Agreement dated July 12, 1976, between City and Cal Boating ("Loan Agreement").

E. Pursuant to the provisions of California Government Code Sections 37350, 37420 and 37351, City has authority to convey fee title to the Phase II Condominium Property for a fair and reasonable consideration to City.

F. Developer is willing to pay to City a fair and reasonable consideration for conveyance by the City of fee title to the Phase II Condominium Property for the benefit of the Purchasers.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Grant, Exercise and Acceptance of Exercise of Phase II Option to Purchase. City does hereby grant, bargain and sell to Developer or its successors-in-interest or assigns, or to those persons as may hereafter be designated by Developer, without warranty of any kind, the sole and exclusive

right and option ("Phase II Option to Purchase") to purchase all the right, title and interest of City in and to the Phase II Condominium Property. Developer, for itself, and its successors-in-interest and assigns and all other interested persons or entities, hereby irrevocably exercises the Phase II Option to Purchase granted to Developer by City under the terms of this Agreement. City, for itself and its successors-in-interest and assigns and all other interested persons or entities, hereby irrevocably accepts Developer's exercise of the Phase II Option to Purchase; provided, however, nothing herein contained shall relieve or diminish the obligation of Developer to timely pay to City the Option Consideration (defined below) required to be paid by Developer under the terms of this Agreement.

2. Option Consideration.

a. Agreement to Pay. For and in consideration of the City's grant of the Phase II Option to Purchase and conveyance of the Phase II Condominium Property to Developer, Developer hereby covenants and agrees to pay to City, at close of each escrow at the time of the initial sale by Developer of each condominium residential housing unit constructed on the Phase II Condominium Property, the sum of Five Thousand Five Hundred Dollars (\$5,500.00) ("Option Consideration"). The covenant and agreement of Developer to pay the Option Consideration is, and shall be deemed to be, separate and distinct from, and shall not be construed as, "rent" payable to City as described in the Lease. No further consideration shall be due or payable in connection with the transfers contemplated hereby, and the Option Consideration shall be deemed full and sufficient consideration for the conveyance of the Phase II Condominium Property on the Conveyance Date (as defined below).

b. Last Date for Payment; Adjustment. On the date which is five (5) years after the "Effective Date" of the Lease (as defined in the Lease), Developer shall pay to City the Option Consideration times 116, which is the number of units approved for construction in the Phase II Condominium Property by a certain Development Agreement ("Development Agreement") between City and Developer, but less any Option Consideration previously paid to City. If any Option Consideration is not paid within thirty (30) days after it is due, Tenant shall pay to Landlord a late fee in an amount equal to one percent (1%) of the amount not timely paid for each month or portion thereof that such amount remains unpaid. If fewer than 116 units is thereafter finally approved for construction (by virtue of amendment to the Development Agreement or otherwise), City shall promptly refund to Developer an amount equal to \$5,500 times the difference

between 116 and the number of units finally approved for construction. If more than 116 units is subsequently approved for construction, Developer shall promptly pay to City an amount equal to \$5,500 times the difference between 116 and the number of units finally approved for construction. Upon making the payments provided for in this Section 2.b., Developer shall have satisfied its obligations under this Section 2.

c. Expiration of Option. Notwithstanding anything to the contrary contained elsewhere in this Agreement or in the Lease, if (i) the conditions to the effectiveness of the Lease set forth in Section 3 thereof are not satisfied on or before the Conditions Date, as defined and described in said Section 3 of the Lease, or (ii) Developer does not timely pay to the City all Option Consideration as provided in this Section 2, or (iii) Developer does not timely elect to extend the term of the Lease for the Long-Term Renewal Term (as defined in the Lease), or (iv) the residential condominium project contemplated for the Phase II Condominium Property is not constructed as contemplated by the Lease and the Development Agreement or (v) for any reason the Lease is terminated prior to the Conveyance Date and either (A) a new lease is not entered with a leasehold Mortgagee (as defined in the Lease) pursuant to Section 29.f. of the Lease or (B) the subleases (and the estates granted thereby) of all unit owners in the Phase II Condominium Property do not continue as direct leases (and leasehold estates) pursuant to Section 27 of the Lease, then in any of such cases, this Agreement and the Phase II Option to Purchase shall terminate and be of no further force or effect, and either party upon request of the other party shall execute (in recordable form) and deliver for recording, a quitclaim deed or other instrument necessary to clear this Agreement and the Phase II Option to Purchase from record title to the Phase II Condominium Property.

3. Operative Date. Subject to Section 2.c. above, the exercise by Developer of the Phase II Option to Purchase shall automatically become effective and be completed without further action by either Developer or City, immediately upon and as of the Operative Date (as defined below). Upon recording of the Phase II CC&R's, City and Developer shall establish an escrow with a title company selected by Developer, and City shall thereupon deposit into such escrow an executed and acknowledged grant deed conveying all of its right, title and interest in the Phase II Condominium Property to Developer, together with instructions to the escrow holder that the deed is to be recorded in Solano County Official Records on the Operative Date without further action by either Developer or City. On the date of such conveyance of title ("Conveyance Date"), the condition of the title to the property being

conveyed shall be in the same condition as exists as of the date of the granting of the Phase II Option to Purchase, and in connection therewith, City shall not suffer any monetary lien or encumbrance to be placed upon the Phase II Condominium Property which would in any way defeat or diminish the title of Developer or its successors-in-interest or assigns; provided that the foregoing covenant shall not apply to any monetary liens or encumbrances placed upon the Phase II Condominium Property by Developer or any of Developer's sublessees, assigns or other successors in interest. Attached hereto as Exhibit B is a list of approved exceptions to the title to the Phase II Condominium Property as of the date of the granting of the Phase II Option to Purchase. The "Operative Date" as used herein shall be deemed to mean that date upon which City shall pay to Cal Boating all of the remaining principal and interest then due Cal Boating from City according to the terms of the Loan Agreement, as specifically set forth in the schedule attached to the Loan Agreement, reference to which is hereby made and which is incorporated herein by such reference. In no event shall such Operation Date be later than December 31 in the year 2028. In the event all such principal and interest has not been paid by City to Cal Boating by December 31 in the year 2028, said date shall nevertheless be deemed to be the Operative Date.

4. Irrevocability. Subject to the satisfaction of the conditions set forth in Section 2.c. above, Developer and City hereby acknowledge and agree that the exercise of the Phase II Option to Purchase by Developer and acceptance thereof by City herein contained are and shall at all future times be irrevocable, noncancellable and nonrecallable by Developer and City, and their respective successors-in-interest, assigns and all other interested persons or entities. Developer and City hereby further acknowledge and agree that various persons and entities not parties to this Agreement, including but not limited to Purchasers, Purchasers' lenders, title insurance companies insuring title to any interest or estate in the Phase II Condominium Property, and the DRE, shall be entitled to rely upon the irrevocable nature of the exercise of the Phase II Option to Purchase by Developer and acceptance thereof by City as provided herein.

5. Transfer to Purchasers. Once the City conveys the Phase II Condominium Property to Developer or its successors and assigns, then Developer (or its successors and assigns) shall make conveyances to Purchasers (or their respective successors and assigns) as are required to be made pursuant to any Phase II Condominium Sublease hereafter entered into by Developer with any such Purchasers; provided, however, the duty to make such conveyances in each instance shall be

conditioned upon said Phase II Condominium Sublease then remaining in effect with no default by the Purchasers (or successors and assigns) existing thereunder. Developer shall comply with all laws, including the California Subdivision Map Act, applicable to such conveyances. It is understood that the form of Phase II Condominium Sublease utilized by Developer in marketing the condominiums will be the latest form of such agreement from time to time submitted by Developer to (and approved by) the DRE and will be consistent with the Lease in all respects.

6. Rental Payments; Termination of Lease Upon Conveyance. Upon the Operative Date, Developer's obligations to pay the minimum annual rental and percentage rental payable under the Lease shall cease and terminate. Following delivery and recording of the deeds by the City to Developer or its nominees of the Phase II Condominium Property as provided in this Agreement, the Lease shall terminate in its entirety.

7. Restriction. The deed of conveyance to be executed by City pursuant to the exercise of this Phase II Option to Purchase shall contain a restriction providing for a reversion of the land so conveyed to City if the same is not used for residential purposes.

8. Transfer. The transfer of the Phase II Condominium Property shall not alter the requirements of the San Francisco Bay Conservation and Development Commission for the Benicia Marina.

9. Notices. Any notice, instruction or other communication to be given hereunder by either party to the other shall be in writing and delivered personally or by registered mail, postage prepaid, as follows:

Notice to City:

City of Benicia
250 East L Street
Benicia, California 94510
Attention: City Council
City Attorney
City Manager
Planning Director

Notice to Developer:

Southern California Federal Savings
and Loan Association
9100 Wilshire Boulevard
Beverly Hills, California 90212
Attn: Mr. John M. Yunker
President
Ms. Doreen J. Blauschild
General Counsel

Bay Group
One Embarcadero Center, Suite 702
San Francisco, California 94111
Attn: Mr. William A. Worthington
President
Mr. George B. Brewster
Principal

Any notice, instruction or other communication will be effective on actual delivery except that if such notice, instruction or other communication is sent by registered mail, it shall be deemed delivered forty-eight (48) hours after posting.

Either party may effectively change the above indicated address by written notice thereof to the other.

10. Miscellaneous.

a. Specific Performance. This Agreement shall be specifically enforceable by either party hereto.

b. Entire Agreement. This Agreement and the Lease contain the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement, statement or promise made by any party hereto, which is not contained herein, shall be binding and valid.

c. Attorneys' Fees. In the event of a dispute concerning the interpretation or enforcement of the provisions hereof, the prevailing party shall be entitled to its reasonable attorneys' fees, costs, and expenses.

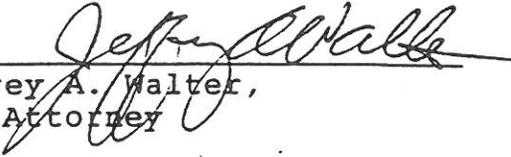
d. Authority. The persons signing this Agreement represent and warrant that they are authorized to execute and deliver this Agreement and that this Agreement will thereby become binding on the party for whom such person has signed.

e. Successors and Assigns. This Agreement and the obligations of the parties hereunder shall be binding upon and shall inure to the benefit of the successors, assigns, and legal representatives of the respective parties, including sublessees and assigns of Developer and purchasers of units in the Phase II Condominium Property, whether by operation of law or otherwise, and shall be deemed covenants running with the Phase II Condominium Property.

f. Governing Law. This Agreement shall be construed under the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day, month and year first above written.

APPROVED AS TO FORM:


Jeffrey A. Walter,
City Attorney

"City"

CITY OF BENICIA, a California municipal corporation

By: 
Marilyn Q. O'Rourke,
Mayor

By: 
Frances D. Greco,
City Clerk

APPROVED AS TO FORM:

Lane Powell Spears Lubersky
Counsel to Tenant

By: 

"Developer"

SOUTHERN CALIFORNIA FEDERAL SAVINGS AND LOAN ASSOCIATION, a federally-chartered savings and loan association

By: 
John M. Yunker,
President

By: 
Doreen J. Blauschild,
Secretary

EXHIBIT A

Legal Description of Property

PARCEL R2

BEING ALL OF LOTS 6, 7, 9 AS SHOWN ON "PARCEL MAP-MARINA BASIN SUBLEASING" (27 PM 64), LOCATED IN THE CITY OF BENICIA, SOLANO COUNTY, CALIFORNIA.

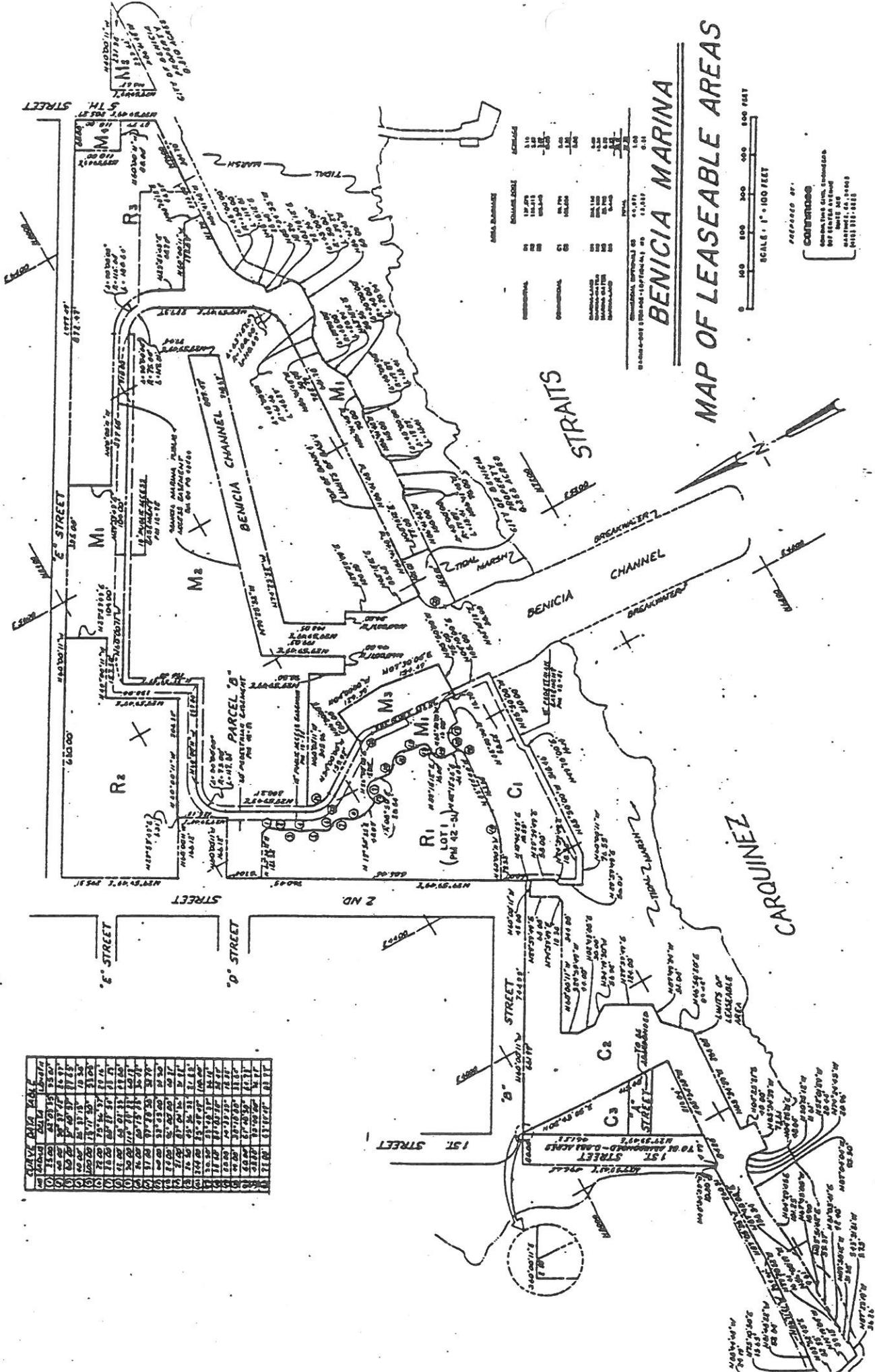
COMMENCING AT A POINT THAT IS THE MOST NORTHWESTERLY CORNER OF LOT 7 ON MAP DESIGNATED AS "PARCEL MAP-MARINA BASIN SUBLEASING" (27 PM 64), ALSO THE MOST NORTHERLY CORNER OF THE BENICIA YACHT CLUB; THENCE NORTH 29°59'49" EAST, 295.31 FEET; THENCE SOUTH 60°00'11" EAST, 630.00 FEET; THENCE SOUTH 29°59'49" WEST, 104.00 FEET; THENCE NORTH 60°00'11" WEST, 157.50 FEET; THENCE SOUTH 29°59'49" WEST, 190.00 FEET; THENCE NORTH 60°00'11" WEST, 306.38 FEET; THENCE SOUTH 29°59'49" WEST, 1.31 FEET; THENCE NORTH 60°00'11" WEST, 116.21 FEET TO THE POINT OF BEGINNING.

PARCEL R3

BEING A PORTION OF LOTS 10, 11, 12, 13, 14 AS SHOWN ON "PARCEL MAP-MARINA BASIN SUBLEASING" (27 PM 64), LOCATED IN THE CITY OF BENICIA, SOLANO COUNTY, CALIFORNIA.

COMMENCING AT A POINT THAT IS THE MOST WESTERLY CORNER OF LOT 7 ON MAP DESIGNATED AS "PARCEL MAP-MARINA BASIN SUBLEASING" (27 PM 64), ALSO THE MOST NORTHERLY CORNER OF THE BENICIA YACHT CLUB; THENCE NORTH 29° 59' 49" EAST, 295.31 FEET; THENCE SOUTH 60° 00' 11" EAST, 1025.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 60° 00' 11" EAST, 872.47 FEET; THENCE SOUTH 29° 59' 49" WEST, 118.00 FEET; THENCE SOUTH 60° 00' 11" EAST, 80.00'; THENCE SOUTH 29° 59' 49" WEST, 87.27 FEET; THENCE NORTH 86° 41' 48" WEST, 273.00 FEET; THENCE NORTH 03° 18' 12" EAST, 44.91 FEET; THENCE NORTH 60° 00' 11" WEST, 175.89 FEET; THENCE NORTH 29° 59' 49" EAST, 68.79 FEET; THENCE THROUGH A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 115.00 FEET, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC LENGTH OF 180.64 FEET; THENCE NORTH 60° 00' 11" WEST, 397.50 FEET; THENCE NORTH 29° 59' 49" EAST, 104.00 FEET; TO THE TRUE POINT OF BEGINNING.

NO.	CHORD	ARC	ANGLE	AREA	PERIMETER
1	100.00	100.00	90.00	7853.98	314.16
2	100.00	100.00	108.00	10000.00	392.70
3	100.00	100.00	126.00	12167.26	481.24
4	100.00	100.00	144.00	14356.02	569.78
5	100.00	100.00	162.00	16565.78	658.32
6	100.00	100.00	180.00	18796.04	746.86
7	100.00	100.00	198.00	21046.30	835.40
8	100.00	100.00	216.00	23316.56	923.94
9	100.00	100.00	234.00	25606.32	1012.48
10	100.00	100.00	252.00	27915.08	1101.02
11	100.00	100.00	270.00	30242.34	1189.56
12	100.00	100.00	288.00	32587.60	1278.10
13	100.00	100.00	306.00	34950.36	1366.64
14	100.00	100.00	324.00	37329.12	1455.18
15	100.00	100.00	342.00	39723.38	1543.72
16	100.00	100.00	360.00	42132.64	1632.26
17	100.00	100.00	378.00	44556.40	1720.80
18	100.00	100.00	396.00	47004.16	1809.34
19	100.00	100.00	414.00	49475.42	1897.88
20	100.00	100.00	432.00	51970.68	1986.42
21	100.00	100.00	450.00	54490.44	2074.96
22	100.00	100.00	468.00	57034.20	2163.50
23	100.00	100.00	486.00	59601.46	2252.04
24	100.00	100.00	504.00	62192.72	2340.58
25	100.00	100.00	522.00	64807.48	2429.12
26	100.00	100.00	540.00	67445.24	2517.66
27	100.00	100.00	558.00	70105.50	2606.20
28	100.00	100.00	576.00	72787.76	2694.74
29	100.00	100.00	594.00	75491.52	2783.28
30	100.00	100.00	612.00	78216.28	2871.82
31	100.00	100.00	630.00	80962.54	2960.36
32	100.00	100.00	648.00	83730.80	3048.90
33	100.00	100.00	666.00	86520.56	3137.44
34	100.00	100.00	684.00	89331.32	3225.98
35	100.00	100.00	702.00	92162.58	3314.52
36	100.00	100.00	720.00	95014.84	3403.06
37	100.00	100.00	738.00	97887.60	3491.60
38	100.00	100.00	756.00	100780.36	3580.14
39	100.00	100.00	774.00	103693.62	3668.68
40	100.00	100.00	792.00	106626.88	3757.22
41	100.00	100.00	810.00	109580.64	3845.76
42	100.00	100.00	828.00	112554.40	3934.30
43	100.00	100.00	846.00	115548.16	4022.84
44	100.00	100.00	864.00	118561.92	4111.38
45	100.00	100.00	882.00	121595.68	4200.92
46	100.00	100.00	900.00	124649.44	4290.46
47	100.00	100.00	918.00	127723.20	4380.00
48	100.00	100.00	936.00	130816.96	4469.54
49	100.00	100.00	954.00	133931.22	4559.08
50	100.00	100.00	972.00	137065.98	4648.62
51	100.00	100.00	990.00	140221.24	4738.16
52	100.00	100.00	1008.00	143397.00	4827.70
53	100.00	100.00	1026.00	146593.26	4917.24
54	100.00	100.00	1044.00	149810.02	5006.78
55	100.00	100.00	1062.00	153047.28	5096.32
56	100.00	100.00	1080.00	156305.04	5185.86
57	100.00	100.00	1098.00	159583.30	5275.40
58	100.00	100.00	1116.00	162882.06	5364.94
59	100.00	100.00	1134.00	166201.32	5454.48
60	100.00	100.00	1152.00	169541.08	5544.02
61	100.00	100.00	1170.00	172901.34	5633.56
62	100.00	100.00	1188.00	176282.10	5723.10
63	100.00	100.00	1206.00	179683.36	5812.64
64	100.00	100.00	1224.00	183105.12	5902.18
65	100.00	100.00	1242.00	186547.38	5991.72
66	100.00	100.00	1260.00	190010.14	6081.26
67	100.00	100.00	1278.00	193493.40	6170.80
68	100.00	100.00	1296.00	197007.16	6260.34
69	100.00	100.00	1314.00	200551.42	6349.88
70	100.00	100.00	1332.00	204126.18	6439.42
71	100.00	100.00	1350.00	207731.44	6528.96
72	100.00	100.00	1368.00	211367.20	6618.50
73	100.00	100.00	1386.00	215033.46	6708.04
74	100.00	100.00	1404.00	218730.22	6797.58
75	100.00	100.00	1422.00	222457.48	6887.12
76	100.00	100.00	1440.00	226215.24	6976.66
77	100.00	100.00	1458.00	230003.50	7066.20
78	100.00	100.00	1476.00	233822.26	7155.74
79	100.00	100.00	1494.00	237671.52	7245.28
80	100.00	100.00	1512.00	241551.28	7334.82
81	100.00	100.00	1530.00	245461.54	7424.36
82	100.00	100.00	1548.00	249402.30	7513.90
83	100.00	100.00	1566.00	253373.56	7603.44
84	100.00	100.00	1584.00	257375.32	7692.98
85	100.00	100.00	1602.00	261407.58	7782.52
86	100.00	100.00	1620.00	265470.34	7872.06
87	100.00	100.00	1638.00	269563.60	7961.60
88	100.00	100.00	1656.00	273687.36	8051.14
89	100.00	100.00	1674.00	277841.62	8140.68
90	100.00	100.00	1692.00	282026.38	8230.22
91	100.00	100.00	1710.00	286241.64	8319.76
92	100.00	100.00	1728.00	290487.40	8409.30
93	100.00	100.00	1746.00	294763.66	8498.84
94	100.00	100.00	1764.00	299070.42	8588.38
95	100.00	100.00	1782.00	303407.68	8677.92
96	100.00	100.00	1800.00	307775.44	8767.46
97	100.00	100.00	1818.00	312173.70	8857.00
98	100.00	100.00	1836.00	316602.46	8946.54
99	100.00	100.00	1854.00	321061.72	9036.08
100	100.00	100.00	1872.00	325551.48	9125.62



AREA	ACRES	FEET
LOT 1	1.1	100
LOT 2	1.1	100
LOT 3	1.1	100
LOT 4	1.1	100
LOT 5	1.1	100
LOT 6	1.1	100
LOT 7	1.1	100
LOT 8	1.1	100
LOT 9	1.1	100
LOT 10	1.1	100
LOT 11	1.1	100
LOT 12	1.1	100
LOT 13	1.1	100
LOT 14	1.1	100
LOT 15	1.1	100
LOT 16	1.1	100
LOT 17	1.1	100
LOT 18	1.1	100
LOT 19	1.1	100
LOT 20	1.1	100
LOT 21	1.1	100
LOT 22	1.1	100
LOT 23	1.1	100
LOT 24	1.1	100
LOT 25	1.1	100
LOT 26	1.1	100
LOT 27	1.1	100
LOT 28	1.1	100
LOT 29	1.1	100
LOT 30	1.1	100
LOT 31	1.1	100
LOT 32	1.1	100
LOT 33	1.1	100
LOT 34	1.1	100
LOT 35	1.1	100
LOT 36	1.1	100
LOT 37	1.1	100
LOT 38	1.1	100
LOT 39	1.1	100
LOT 40	1.1	100
LOT 41	1.1	100
LOT 42	1.1	100
LOT 43	1.1	100
LOT 44	1.1	100
LOT 45	1.1	100
LOT 46	1.1	100
LOT 47	1.1	100
LOT 48	1.1	100
LOT 49	1.1	100
LOT 50	1.1	100
LOT 51	1.1	100
LOT 52	1.1	100
LOT 53	1.1	100
LOT 54	1.1	100
LOT 55	1.1	100
LOT 56	1.1	100
LOT 57	1.1	100
LOT 58	1.1	100
LOT 59	1.1	100
LOT 60	1.1	100
LOT 61	1.1	100
LOT 62	1.1	100
LOT 63	1.1	100
LOT 64	1.1	100
LOT 65	1.1	100
LOT 66	1.1	100
LOT 67	1.1	100
LOT 68	1.1	100
LOT 69	1.1	100
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LOT 80	1.1	100
LOT 81	1.1	100
LOT 82	1.1	100
LOT 83	1.1	100
LOT 84	1.1	100
LOT 85	1.1	100
LOT 86	1.1	100
LOT 87	1.1	100
LOT 88	1.1	100
LOT 89	1.1	100
LOT 90	1.1	100
LOT 91	1.1	100
LOT 92	1.1	100
LOT 93	1.1	100
LOT 94	1.1	100
LOT 95	1.1	100
LOT 96	1.1	100
LOT 97	1.1	100
LOT 98	1.1	100
LOT 99	1.1	100
LOT 100	1.1	100

BENICIA MARINA

MAP OF LEASEABLE AREAS

SCALE: 1" = 100 FEET

APPROVED BY:
 CONTRACTOR:
 ENGINEER:
 SURVEYOR:
 DATE: 10/10/00

EXHIBIT B

Approved Exceptions to Title

OK

11/31/90

EXHIBIT B

Approved Exceptions to Title

1. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
2. Any taxes which may be assessed as a result of the leasehold interest of Developer created by the Lease.
3. Public Easement for Commerce, Navigation and Fishing over any portion of the Property which is submerged or which may become submerged.
4. Public Trust Easement over any portion of the Property which is or was formerly tide and submerged land.
5. Any adverse claim based on the assertion that any of the Property is not consistent and compatible with commerce, navigation and fishery, and the public trust and that such use is not in the state wide general interest of the people of this state.
6. The interest of the City of Benicia and the public in those portions of the Property lying within the streets and alleys shown on the Official Map of the City of Benicia.

Said matter affects D Street.
7. Limitations, covenants, conditions, restrictions, reservations, exceptions, terms, liens or charges, but deleting restrictions, if any, based on race, color, religion or national origin contained in the instrument recorded May 22, 1984 in Book 1984, Page 43584, Series 22367, Solano County Official Records.
8. Easement as contained in the Declaration referenced in paragraph 7 above referred to as follows:
Purpose: Public Access
Affects: Various portions of said lands.
9. Interim Conditional Certificate of Compliance for Leasehold estate, recorded June 29, 1984, Book 1984, Page 57002, Series 28778, Solano County Official Records.

10. AGREEMENT on the terms and conditions contained therein,
For : Development
Between : The City of Benicia
And : Southern California Federal Savings and Loan Association
Recorded : December 14, 1990, Series No. 900097574, Official Records
11. Restated and Amended Benicia Marina Lease Agreement (Phase II Condominiums Parcel) dated April 22, 1990 by and between City and Developer, as amended by that certain First Amendment to Restated and Amended Benicia Marina Lease Agreement (Phase II Condominiums Parcel) dated December 12, 1990.

STATE OF CALIFORNIA)
) ss.
County of Solano)

On this 10th day of January, 1991, before me, the undersigned, a Notary Public in and for the State of California, residing therein, duly commissioned and sworn, personally appeared Marilyn C. O'Rourke and Frances D. Greco, being the Mayor and City Clerk, respectively, of THE CITY OF BENICIA, a California municipal corporation, the corporation which executed the foregoing instrument, and they acknowledged to me that said corporation executed the same.

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

Lois E. Henderson
NOTARY PUBLIC

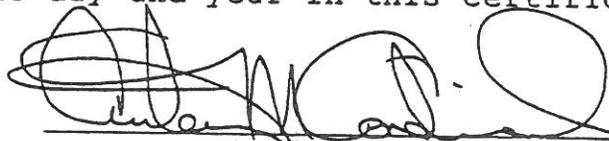


In and for the State of California
My Commission Expires: Aug. 13, 1993

STATE OF CALIFORNIA)
) ss.
County of Los Angeles)

On this 20th day of December, 1990, before me, the undersigned, a Notary Public in and for the State of California, residing therein, duly commissioned and sworn, personally appeared John M. Yunker and Doreen J. Blauschild, being the President and Secretary, respectively, of SOUTHERN CALIFORNIA FEDERAL SAVINGS AND LOAN ASSOCIATION, a federally chartered savings and loan association, the association which executed the foregoing instrument, and they acknowledged to me that said association executed the same.

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



NOTARY PUBLIC.

In and for the State of California

My Commission Expires:

